

DOD/NAVY HOTLINE INVESTIGATIVE REPORT

16 April 2013

1. Investigators(s) and Identifying Information and Location of Working Papers

a. Investigator(s) and Identifying Information.

(b) (6), (b) (7)(C), NAVSUP Global Logistics Support (GLS), (b) (6), (b) (7)(C)
, (b) (6), (b) (7)(C)@navy.mil

(b) (6), (b) (7)(C), GS-12, (b) (6), (b) (7)(C), NAVSUP GLS, (b) (6), (b) (7)(C)
, (b) (6), (b) (7)(C)@navy.mil

b. Location of working papers. NAVSUP GLS, 937 N. Harbor Drive, San Diego, 92132

2. Background and Summary

a. Hotline Control Number: 201201135, Date of Receipt: 25 May 2012, Origin: NAVSUP IG Hotline

b. Summary of Complaint. Confidential complainant alleged that nepotism is widespread at NAVSUP Fleet Logistics Center Norfolk (FLCN). Complainant alleged that "whole families" are employed, particularly in codes 200 and 300. Complainant alleged that NAVSUP FLCN's (b) (6), (b) (7)(C) has several members of her family employed by the organization, to include two (b) (6), (b) (7)(c) and a (b) (6), (b) (7)(c). Complainant alleged that other employees also have several members of their families employed, as well, and that at least twenty-eight relatives have, at one time or another, been employed by the organization. Complainant further alleged that the family members/relatives that were hired were, in many cases, unqualified or given special considerations to get their positions, which constituted prohibitive personnel practices. Complainant alleged that employee morale at NAVSUP FLCN is "non-existent" as a result. Complainant stated that wounded warrior veterans are being denied opportunities for employment at the activity due to the nepotism and violations of Prohibited Personnel Practices.

c. Summary of outcome of investigation. The investigation finds that, from 2006-2012, NAVSUP FLCN Management manipulated hiring practices under (1) the Student Educational Employment Program and (2) the Federal Career Intern Program to the benefit of relatives and friends of the NAVSUP FLCN workforce and management. These actions either ensured the hiring of these individuals or greatly enhanced their chances for employment. Under the Student Educational Employment Program, NAVSUP FLCN Management made "by name" selections to hire relatives and friends without any advertisement of these opportunities or any competition in the selection process. Since NAVSUP FLCN management (and those who worked closely with management) were the only ones who knew of these opportunities, those hired were predominantly relatives and friends of these officials. Among those hired under the Student Educational Employment Program were two children of the (b) (6), (b) (7)(C), (b) (6), (b) (7)(c) and (b) (6), (b) (7)(c) of the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), and a number of "family friends" of various employees. In several instances, appointments under this program were renewed annually, and some individuals were ultimately appointed without competition to a permanent position.

A second device employed was the now-discontinued Federal Career Intern Program, used to solicit college graduates into "intern positions" which led to a non-competitive career ladder for the selectee. The lack of documented recruiting efforts for these positions, coupled with the significant number of friends and relatives hired under this program, strongly suggests an implicit management policy favoring employment of those with ties to the existing NAVSUP FLCN workforce, particularly senior management. These practices are exemplified by one instance in which the (b) (6), (b) (7)(C) selected a "family friend" for appointment from a certificate of eligible candidates which nominated only the "family friend". When asked by Human Resource Office (HRO) Norfolk - FLCN Satellite Office if there were any other applicants, the (b) (6), (b) (7)(C) responded, "I know of no other candidates. Please make the job offer." Indeed, from 2006 until 2012, at least fifty employment actions involved candidates with family ties to NAVSUP FLCN employees and officials and, although the investigation did not find evidence of favoritism in all of these actions, it was present in the actions documented in this report.

There are two primary reasons why this mismanagement occurred: poor guidance from HR and a failure by NAVSUP FLCN senior management to recognize their ethical responsibilities as public servants. To be sure, poor HR guidance is the primary cause. Had HR representatives accurately advised management on the applicable laws and regulations, it is unlikely that most of these employment decisions would have been made. Most of the employment decisions documented herein were made with the advice and approval of the assigned HR specialist. HR never briefed the (b) (6), (b) (7)(C) or PMAB members on the possible applicability of anti-nepotism laws (5 USC 3110(b) and 5 USC 2302(b)(7)) to employment actions involving relatives. HR failed to identify potential ethical and personnel law issues concerning favoritism and preferential treatment of NAVSUP FLCN "friends and family" and, furthermore, HR incorrectly advised management on the restrictions that must be observed when a student works in the same agency as a relative (5 CFR 213.3202).

Poor HR guidance, however, cannot completely excuse management's actions. Senior civilian management never exercised due diligence to ensure that employment decisions involving "friends and family" did not run afoul of the ethics and personnel laws. Indeed, during the period covered by this report, the investigators only found one instance in which a management official asked HR for guidance on employment decisions involving relatives. At no time did senior management even consider consulting the Office of General Counsel (OGC), either at GLS or NAVSUP, on this issue.

While the (b) (6) and (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) and (b) (6) may not have known the specifics of the law, the mere fact that they were engaged directly in decisions concerning the employment and promotion of their own children, relatives, and friends should have prompted them to exercise great care to ensure no legal or ethical lines were crossed. All of these individuals receive annual ethics briefings that stress the basic ethical duties of public service. Thus, the lack of guidance from HR provides limited excuse for the lapses identified in this report.

In conducting this investigation, interviews of sixty personnel were conducted in July 2012, December 2012, and February 2013. Thousands of personnel records covering the period of 2006 through 2012 were reviewed, retrieved from NAVSUP FLCN, Human Resource Office (HRO) Norfolk - FLCN Satellite Office, Human Resource Service Center - East (HRSC-E), and Office of Personnel Management (OPM) Norfolk.

d. Additional Information. Additional individuals were named in the initial complaint but are not covered in the below allegations. They are addressed at the conclusion of the report.

e. Legal Authorities.

This investigation concludes that NAVSUP FLCN personnel, including senior civilians and Human Resource Office (HRO) Norfolk - FLCN Satellite Office personnel, have either violated or failed to comply with the following statutory and regulatory requirements:

(1) 5 USC 2301, MERIT SYSTEM PRINCIPLES,

(2) 5 USC 2302, PROHIBITED PERSONNEL PRACTICES

5 USC 2302(b)(7) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official.

(3) 5 USC 3110, EMPLOYMENT OF RELATIVES; RESTRICTIONS

5 USC 3110(a)(2) defines "public official" as "an officer, a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency."

5 USC 3110(a)(3) defines "relative" as follows: "with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister."

5 USC 3110(b) states, "A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual."

5 USC 3110(c) states, "An individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced."

(4) 5 CFR 2635.101, OFFICE OF GOVERNMENT ETHICS REGULATION

5 CFR 2635.101(b)(8) states, "Employees shall act impartially and not give preferential treatment to any private organization or individual."

5 CFR 2635.101(b)(14) states, "Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts."

(5) 5 CFR 213.3202, STUDENT EDUCATIONAL EMPLOYMENT PROGRAM

5 CFR 213.3202 states that, with regard to employment of relatives, "In accordance with 5 CFR part 310, a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency."

In total, forty-seven allegations are listed, with forty-five of those allegations substantiated.

3. First Allegation: That (b) (6), (b) (7)(C), GS-15, violated the statutory prohibitions against nepotism, 5 USC §2302(b)(7) and 5 USC §3110(b), by appointing, employing, promoting, and advancing her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), GS-11, in and to a civilian position in the NAVSUP Fleet Logistics Center Norfolk (FLCN), the agency in which (b) (6), (b) (7)(C) is serving as a public official and exercises jurisdiction or control as such an official, during the time period beginning in 2006 until the present. **Substantiated.**

a. Facts

(1) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she has been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with her employment at NAVSUP FLCN.

(3) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. Often, the PMAB merely approves a recruitment action without becoming engaged in selection of a particular individual for a particular position. However, certain actions such as summer hires and career ladder promotions are "by name" requests in which the PMAB approves specific recruiting or promotion actions for specific individuals. The PMAB is chaired by the Executive Director and meets weekly in the ED's office, although the board also meets at other times when needed.

(4) The PMAB membership consists of the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C); the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) until his departure in December of 2008 and (b) (6), (b) (7)(C) thereafter, with an overlap from June 2008-December 2008); and the Human Resource Office Norfolk - (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) does not always participate in PMAB sessions.

(5) According to the testimony of (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) , and (b) (6), (b) (7)(C) - some personnel actions may have names associated with them at the time of their submission to the PMAB for approval. Such actions include "by-name" requests, reassignments, and career-ladder promotions. NAVSUP FLCN processes all summer hires as by-name requests. In keeping with such practices (b) (6), (b) (7)(C) initial summer hire as a GS-0344-04, effective 15 May 2006, was processed as a by-name request, at which point, her name was present on documents submitted to the PMAB for approval.

(6) The hiring of (b) (6), (b) (7)(C) was initiated by (b) (6), (b) (7)(C) , who at that time was the (b) (6), (b) (7)(C) for Code 200 under the supervision of (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) was responsible for the summer hire program within Code 200. The summer hire program was run by NAVSUP FLCN itself and the command did not coordinate with any broader summer hire program conducted by Human Resource Service Center - East (HRSCE). No advertising external to NAVSUP FLCN was conducted for the program and it is doubtful that summer job opportunities were even shared widely throughout NAVSUP FLCN. Essentially, summer hire opportunities were made available to those individuals who were approached by NAVSUP FLCN management or who knew to ask NAVSUP FLCN management.

(7) In the spring of 2006, the (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) discussed the possible employment of the (b) (6), (b) (7)(C) in Code 200 that summer. This finding is somewhat at odds with (b) (6), (b) (7)(C) initial statement to investigators on 30 October 2012, wherein she denied having any involvement in the hiring of her (b) (6), (b) (7)(C) and seemed to suggest all communication occurred between her (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to wit: "The summer position, as I said, she contacted the folks in 200. As I said, I'm going to assume they recruited her after she was back there. I think (b) (6), (b) (7)(C) was in Code 200 back at that time. I think it was her that she contacted, or maybe (b) (6), (b) (7)(C) . Don't hold me on that one. They were both back there."

(8) However, when re-interviewed on 14 February 2013, (b) (6), (b) (7)(C) acknowledged that she and (b) (6), (b) (7)(C) in fact had a discussion concerning the possible employment of her (b) (6), (b) (7)(C) prior to her (b) (6), (b) (7)(C) submission of an application: "She (b) (6), (b) (7)(C)] asked, 'Would you think (b) (6), (b) (7)(C) would be interested in a summer job?' I said I'd ask her and so I told (b) (6), (b) (7)(C) that, if she wanted a job, to contact (b) (6), (b) (7)(C) , and so she obviously did."

(9) (b) (6), (b) (7)(C) testimony corroborates this discussion: (b) (6), (b) (7)(C) had told me that she had this college-aged (b) (6), (b) (7)(C) and I told her I was interested in bringing some summer hires on and so (b) (6), (b) (7)(C) sent me her resume and I brought her on - and she did a great job."

(10) (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) daughter, testified that her (b) (6), (b) (7)(C) . . . obviously knew I was looking for summer employment, so she just gave me the points of contact and I submitted my application." She further volunteered, "She was my initial foot in the door, I think, at that point. She told me the job existed and I said I was interested, so I'm sure she went to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

(11) When asked by investigators whether, at that time, she had any concerns about employing her (b) (6), (b) (7)(C) at NAVSUP FLCN, the (b) (6), (b) (7)(C) stated that she did not. She stated that there was no discussion at that time with HR, Counsel, or anyone else about whether there was any potential conflict

of interest or ethics problem. She stated she did not believe there would be a problem because she was not the selecting official and the hiring decision was made several levels below her in the organization.

(12) The (b) (6), (b) (7)(C) also expressed her belief that everyone deserves a chance to work and that, therefore, her (b) (6), (b) (7)(C) should have the same chance for summer employment with NAVSUP FLCN as others. However, when asked whether the summer hire program was sufficiently advertised to ensure students beyond the NAVSUP FLCN community knew these employment opportunities existed, she acknowledged that summer hire opportunities were only communicated through word of mouth. When asked if the summer hire process was fair and whether a Navy dependent outside the NAVSUP FLCN community could learn of the job opportunities, the (b) (6), (b) (7)(C) replied, "I don't know. I don't know that. If you're suggesting that the competition was limited, yeah. . ."

(13) (b) (6), (b) (7)(C) subsequently applied for a summer position with (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) for Code 200. (b) (6), (b) (7)(C) selected her for a GS-0344-04 and proposed the action to the PMAB for approval. Although the investigation has not located the Position Management Tracking Form for this action, the (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C), appears to have approved the hiring of her own (b) (6), (b) (7)(C) for a summer job. In her statement, the (b) (6), (b) (7)(C) acknowledged that the hiring action could not have gone forward without her approval. She also stated that, on occasion, someone signs on behalf of the (b) (6), (b) (7)(C) but indicated that person signed with the knowledge and approval of the (b) (6), (b) (7)(C) stating: "It's really that I have seen it, that I know what's happening."

(14) (b) (6), (b) (7)(C) stated that, from her point of view, approval of the PMAB was primarily an administrative responsibility that ensured that the necessary financial resources and personnel approvals were in place before an action was taken. She maintained that "position management responsibilities" are "all at the supervisors' level." She stated that if an employee is promoted, "The supervisor is responsible for the legitimacy of that action." She also stated that "If (b) (6), (b) (7)(C) in any way doubts that, she will ask to see it. So when she moves it forward, I know that whatever it is, is legitimate." In sum, (b) (6), (b) (7)(C) asserts that the responsibility and discretion for selecting an applicant or promoting an employee rests with her subordinates, not her. When asked whether she entrusted subordinates (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) to make an independent judgment whether to hire her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) replied "Absolutely." When asked whether that was a reasonable expectation and whether (b) (6), (b) (7)(C) might be placed in an uncomfortable position, (b) (6), (b) (7)(C) replied, "No, if (b) (6), (b) (7)(C) didn't want to do it, all she had to do is say it. Here's the reason - because they asked me. I didn't start the conversation. They asked if (b) (6), (b) (7)(C) would be interested in coming to work."

(15) (b) (6), (b) (7)(C) was also asked if she ever considered recusing herself from PMAB actions involving her (b) (6), (b) (7)(C). She replied, "No, no, and it's funny you should say that, and there's been people that have suggested it to me. (b) (6), (b) (7)(C) did and I said I thought it was disingenuous. I knew it was happening."

(16) At another point in the interview, she stated, "The question was, 'Do I want to sign this?' and I said, 'I sign everyone else's why wouldn't I sign theirs?'"

(17) On 17 September 2007, according to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, she was reappointed as a summer hire, GS-

0344-05, not to exceed 17 September 2008, through an additional by-name request. Although the investigation has not located the Position Management Tracking Form for this action, the (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C), appears to have approved the hiring of her own (b) (6), (b) (7)(C) for a summer job.

(18) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #369-08, on 20 August 2008 stating, "Request extension of student hire on excepted appointment NTE 30 Sep 09." (b) (6), (b) (7)(C) who was then (b) (6), (b) (7)(C), was identified on the documents. The document was submitted by (b) (6), (b) (7)(C) a direct report to the (b) (6), (b) (7)(C) for civilian personnel and staffing matters within her department. It was signed approved on the Executive Director decision line by (b) (6), (b) (7)(C) a direct report to the (b) (6), (b) (7)(C)

(19) According to the testimony of the (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) there was discussion at some point with the (b) (6), (b) (7)(C) (b) (7)(C) whether or not she should sign the PMAB approvals for her (b) (6), (b) (7)(C). Over the years, some were signed by the (b) (6), (b) (7)(C) and some were not, over concern expressed to the (b) (6), (b) (7)(C) that she should not be taking action on matters involving her (b) (6), (b) (7)(C). In some cases, others signed for the (b) (6), (b) (7)(C). Ultimately, she insisted it was her responsibility and went ahead and signed the Position Management Tracking Form. However, at no time did the (b) (6), (b) (7)(C) "recuse" herself from employment decisions involving her daughter and she never referred these decisions to a higher level authority, such as the NAVSUP FLCN Commanding Officer. If subordinates signed the "Executive Director approval" line of the Position Management Tracking Form, this was done with the knowledge and tacit or implied approval of the (b) (6), (b) (7)(C)

(20) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, her summer hire appointment was extended 17 September 2008, not to exceed 30 September 2009 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(21) On 2 August 2009, according to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, she was converted to an excepted appointment, from a GS-0344-05 to a YA-0343-01, under a Federal Career Intern Program (FCIP) certificate of eligibles.

(22) On 14 August 2009, according to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, a request was made to reassign (b) (6), (b) (7)(C) from her recently appointed YA-0343-01 Program Analyst position to a career ladder GS-1102-07/9/11/12 Contract Specialist position, effective 30 August 2009. At that point, the request for (b) (6), (b) (7)(C) reassignment was submitted to the PMAB with (b) (6), (b) (7)(C) identified in required documents.

(23) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #273-10, on 14 June 2010, with a proposed/requested effective date of 29 August 2010 stating, "Request career ladder promotion for a Contract Specialist in the Contracting Department. Employee has met all of the requirements to be promoted to the next grade." (b) (6), (b) (7)(C) was identified on the document. It was signed approved by (b) (6), (b) (7)(C) on 24 June 2010.

(24) On 29 August 2010, as a part of her career-ladder progression, (b) (6), (b) (7)(C) was non-competitively promoted from a GS-1102-07 to a GS-1102-09, at which point, documents with which her name was associated were submitted for the PMAB's approval of her promotion.

(25) On 28 August 2011, as a part of her career-ladder progression, (b) (6), (b) (7)(C) was non-competitively promoted from a GS-1102-09 to a GS-1102-11 - at which point, documents for which her name was associated were submitted for the PMAB's approval of her promotion.

(26) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #200-11, on 13 June 2011, with a proposed/requested effective date of 28 August 2011 stating, "Request career ladder promotion for a Contract Specialist in the Contracting Department. Employee has met all of the requirements to be promoted to the next grade." with (b) (6), (b) (7)(C) name identified. It was signed approved by (b) (6), (b) (7)(C) on 20 June 2011.

(27) (b) (6), (b) (7)(C) was the leading member of the PMAB, during the initial by-name summer hire appointment request, as well as subsequent requests for the reappointment, appointment extension, reassignment, and promotions of her daughter, (b) (6), (b) (7)(C)

(28) When asked whether she perceived any legal issues in approving PMAB actions involving her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) attested that she did not, because the actual selection decision had been made by someone else and the PMAB action was done mainly to ensure the necessary approvals and funding were in place to go forward with the personnel action. However, she did acknowledge that an action requiring PMAB approval could not go forward without PMAB action.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b) (7) any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative of such employee if such position is in the agency in which such employee is serving as a public official or over which such employee exercises jurisdiction or control as such an official.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(3) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment - as well as her subsequent extensions, reassignment, and promotions - serving as a public official, as defined in 5 USC 3110(a) (2), and was in a position to exercise jurisdiction or control as such an official.

(4) Although (b) (6), (b) (7)(C) initially insisted that she had "nothing" to do with the employment of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) the investigation discovered that the hiring, extension and promotion of (b) (6), (b) (7)(C) were all approved by (b) (6), (b) (7)(C) in her capacity as (b) (6), (b) (7)(C). As the lead member of the PMAB, (b) (6), (b) (7)(C) was responsible for the appointment and employment, as well as the subsequent reassignment, promotions, and advancements of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) in and to civilian positions, in violation of Title 5, United States Code, Section 2302(b) (7).

(5) (b) (6), (b) (7)(C) violated 5 USC 3110 and 5 USC 2302(b) (7), with the following specific actions:

(a) (b) (6), (b) (7)(C) "advocated" her (b) (6), (b) (7)(C) for employment in 2006 when, in response to (b) (6), (b) (7)(C) inquiry as to whether (b) (6), (b) (7)(C) would

like a summer job in Code 200, (b) (6), (b) (7)(C) communicated this opportunity to her (b) (6), (b) (7)(c) and advised her (b) (6), (b) (7)(c) to directly contact the subordinate who made the proposal. By becoming the conduit through which the offer was conveyed, she implicitly approved of and advocated the hiring of (b) (6), (b) (7)(C). Although (b) (6), (b) (7)(C) claims she took these actions to take herself out of the hiring process, her actions actually resulted in her conveying an offer of employment from her subordinate to her (b) (6), (b) (7)(c). Additionally, it had the effect of indicating to (b) (6), (b) (7)(C) that the (b) (6), (b) (7)(C) had no objections to the proposed employment of her (b) (6), (b) (7)(c).

(b) (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C), approved the appointment of her (b) (6), (b) (7)(c) to a summer job in May 2006. Although (b) (6), (b) (7)(c) stated that her subordinates exercised independent judgment in hiring and promotion decisions, she also acknowledged that many of these actions could not go forward without her approval as (b) (6), (b) (7)(C). While she may have perceived the role of the PMAB as mainly administrative, the reality was that her (b) (6), (b) (7)(c) could not have been hired without the approval of the (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) clearly testified that she knew of and approved all of the PMAB actions that concerned her (b) (6), (b) (7)(c). Accordingly, by approving of the PMAB's proposed hire of (b) (6), (b) (7)(c) in 2006, (b) (6), (b) (7)(c) "employed" her (b) (6), (b) (7)(c) in violation of 5 USC 3110 and 5 USC 2302(b)(7).

(c) (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C), approved the appointment of her (b) (6), (b) (7)(c) as a Not to Exceed (NTE) 1 Year student in September 2007, which was approved by the PMAB as a "by name" request. For the reasons set forth above, this constituted the employment of a relative in violation of 5 USC 3110 and 5 USC 2302(b)(7).

(d) (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C), impliedly approved the appointment of her (b) (6), (b) (7)(c) as a NTE 1 Year student in August 2008, which was approved by the PMAB as a "by name" request. Even though (b) (6), (b) (7)(C) signed for the (b) (6), (b) (7)(C), there is no indication that the (b) (6), (b) (7)(C) recused herself from this action. Therefore, (b) (6), (b) (7)(C) signature appears to have been made with the knowledge and consent of (b) (6), (b) (7)(c). For the reasons set forth above, this constituted the employment of a relative in violation of 5 USC 3110 and 5 USC 2302(b)(7).

(e) (b) (6), (b) (7)(C) appointed her (b) (6), (b) (7)(c) to a GS-1102-07 Contract Specialist position, effective 30 August 2009, when she approved this action as (b) (6), (b) (7)(C). For the reasons set forth above, this constituted the employment of a relative in violation of 5 USC 3110 and 5 USC 2302(b)(7).

(f) (b) (6), (b) (7)(C) promoted her (b) (6), (b) (7)(c) to a GS-09 and GS-11 in June 2010 and June 2011, when she personally approved these actions as (b) (6), (b) (7)(C). Since her (b) (6), (b) (7)(c) would not have been promoted without the approval of the PMAB and the PMAB Chairperson, this constituted the promotion of a relative in violation of 5 USC 3110 and 5 USC 2302(b)(7).

(6) Based on the evidence, this allegation is substantiated.

c. **Recommendation(s).** Take appropriate action to hold subject accountable.

d. **Disposition.** Forwarded to higher authority for appropriate administrative and/or corrective action.

4. Second Allegation: That (b) (6), (b) (7)(C) GS-15, violated the statutory prohibitions against nepotism, 5.U.S.C. §2302(b) (7) and 5 USC §3110(b), by appointing and employing her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) GS-05, in or to a civilian position in the NAVSUP Fleet Logistics Center Norfolk (FLCN), the agency in which (b) (6), (b) (7)(C) is serving as a public official and exercises jurisdiction or control as such an official, during the time period beginning in 2011 until the present. **Substantiated.**

a. Facts

(1) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she has been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with her employment at NAVSUP FLCN.

(3) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed.

(4) At the time of (b) (6), (b) (7)(C) hire, the PMAB membership consisted of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C); and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C).

(5) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), some personnel actions may have names associated with them at the time of their submission to the PMAB for approval. Such actions include by-name requests, reassignments, and career-ladder promotions.

(6) NAVSUP FLCN processes all summer hires as by-name requests.

(7) (b) (6), (b) (7)(C) testified that her interest in obtaining a summer job at NAVSUP FLCN was piqued by (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) testified, "I heard of it through (b) (6), (b) (7)(C) She's a family friend. I sent my resume into (b) (6), (b) (7)(C)." No special application process was followed. (b) (6), (b) (7)(C) sent in her credentials to (b) (6), (b) (7)(C) and was notified that she had a job. There was no interview.

(8) (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, her initial summer hire, effective 24 May 2011 and not to exceed 30 September 2011, was processed as a by-name request, at which point, her name was present on documents submitted to the PMAB for approval.

(9) Prior to the time the documents were submitted to the PMAB, (b) (6), (b) (7)(C) had a personal discussion with (b) (6), (b) (7)(C), advising her that (b) (6), (b) (7)(C) was being hired as a summer student employee. When (b) (6), (b) (7)(C) questioned hiring another (b) (6), (b) (7)(C) of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) quickly replied, saying, "I know," closing off this topic to further discussion.

(10) (b) (6), (b) (7)(C) stated that, on the few occasions when the question came up about whether the (b) (6), (b) (7)(C) should be approving personnel

actions involving her relatives, she was insistent that it was proper. The (b) (6), (b) (7)(C) own statements corroborate this.

(11) NAVSUP FLCN Code 300 submitted a Position Management Tracking Form (PMAB), #118-11, on 21 April 2011 stating, "Recruit a Management Assistant, GS-0344-05 student hire in the Business Support Department NTE 30 September 2011." with "Recruit Area of Consideration: Name request (b) (6), (b) (7)(C)." It was signed approved by (b) (6), (b) (7)(C) on 21 April 2011.

(12) According to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, her summer hire appointment was extended 1 October 2011, not to exceed 30 September 2012 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(13) NAVSUP FLCN 300 submitted a Position Management Tracking Form (PMAB), #288-11, on 29 July 2011, with the following justification: "Extend Student Appointment" to Current Incumbent Name: (b) (6), (b) (7)(C) It was signed approved by (b) (6), (b) (7)(C) on 05 August 2011.

(14) (b) (6), (b) (7)(C) summer hire appointment was extended 1 October 2012, not to exceed 30 September 2013 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(15) (b) (6), (b) (7)(C) as the leading member of the PMAB, approved the initial by-name summer hire appointment request, as well as the subsequent requests for appointment extension, of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C)

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(7) any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative of such employee if such position is in the agency in which such employee is serving as a public official or over which such employee exercises jurisdiction or control as such an official.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(3) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment - as well as her subsequent appointment extensions - serving as a public official, as defined in 5 USC 3110(a)(2), and was in a position to exercise jurisdiction or control as such an official.

(4) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) personally approved the appointment and continued employment of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) in and to a civilian position, in violation of Title 5, United States Code, Section 2302(b)(7).

(5) The exchange between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) regarding the hiring of yet another (b) (6), (b) (7)(C) of the (b) (6), (b) (7)(C) indicates a significant degree of unease among (b) (6), (b) (7)(C) subordinates with bringing additional relatives of the (b) (6), (b) (7)(C) onto the NAVSUP FLCN employment roster. It

also shows the immediate subordinates of the (b) (6), (b) (7)(C) were uneasy about even bringing the matter up for discussion.

(6) It is noteworthy that, rather than open the issue for careful analysis and engage legal and personnel experts who could properly advise the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) chose to rely solely on her own sense of propriety. The reticence of some of (b) (6), (b) (7)(C) subordinates to advance an ethical issue because it might not be received well causes the investigators to question whether subordinates at NAVSUP FLCN really could exercise independence in making employment decisions involving (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). Although there is no evidence that (b) (6), (b) (7)(C) directly intervened in the hiring and promotion recommendations of her subordinates, it seems unlikely that a Contracting Officer or Branch Head would not be influenced by the knowledge that their decision was subject to review by the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C).

(7) (b) (6), (b) (7)(C) violated 5 USC 3110 and 5 USC 2302(b) (7) with the following specific actions:

(a) (b) (6), (b) (7)(C) "employed" her (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) by personally signing the PMAB approval of this action on 21 April 2011.

(b) She also "employed" her (b) (6), (b) (7)(C) by personally signing PMAB approval of the extension of (b) (6), (b) (7)(C) employment on 05 August 2011.

(c) Finally, she "employed" her (b) (6), (b) (7)(C) by participating in the PMAB approval of another one year extension to her student hire appointment, which began 1 October 2012 and runs through 30 September 2013.

(8) Based on the evidence, this allegation is substantiated.

c. **Recommendation(s).** Take appropriate action to hold subject accountable.

d. **Disposition.** Forwarded to higher authority for appropriate administrative and/or corrective action.

5. **Third Allegation:** That (b) (6), (b) (7)(C) GS-15, violated the statutory prohibitions against nepotism, 5.U.S.C. §2302(b) (7) and 5 USC §3110(b), by employing, promoting, and advancing her (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), GS-12, in a civilian position at the NAVSUP Fleet Logistics Center Norfolk (FLCN), the agency in which (b) (6), (b) (7)(C) is serving as a public official and exercises jurisdiction or control as such an official, during the time period beginning 7 November 2009 until the present. **Substantiated.**

a. Facts

(1) According to the testimonies of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), Optional Form - 306 (OF-306), Declaration for (b) (6), (b) (7)(C) Federal Employment, (b) (6), (b) (7)(C) married the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) on 7 November 2009 and is currently the (b) (6), (b) (7)(C).

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she has been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN.

(3) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed.

(4) The PMAB membership consists of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(5) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) - who is responsible for preparing documents for the PMAB - some personnel actions may have names associated with them at the time of their submission to the PMAB for approval. Such actions include career-ladder promotions.

(6) On 5 September 2007, according to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, he was appointed to an excepted appointment, GS-1102-07, under the Federal Career Intern Program (FCIP), with the full performance level of a GS-1102-12 - at which point he was the boyfriend of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) .

(7) On 14 September 2008, according to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, as a part of his career-ladder progression, (b) (6), (b) (7)(C) was non-competitively promoted from a GS-1102-07 to a GS-1102-09.

(8) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #390-09, on 20 August 2008 stating, "Request career ladder promotion for a Contract Specialist in the Contracting Department. Employee has met all of the requirements to be promoted to the next grade." (b) (6), (b) (7)(C) was identified on the document. It was signed approved on the ED decision line on 6 August 2009 by (b) (6), (b) (7)(C) a direct report to the (b) (6), (b) (7)(C)

(9) On 13 September 2009, according to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, as a part of his career-ladder progression, (b) (6), (b) (7)(C) was non-competitively promoted from a GS-1102-09 to a GS-1102-11 - at which point, documents for which his name was associated were submitted for the PMAB's approval of his promotion.

(10) On (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) was married to (b) (6), (b) (7)(C) , the (b) (6), (b) (7)(C) of the (b) (6), (b) (7)(C)

(11) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #566-09, on 23 November 2009, with the following justification: "Request convert to competitive service IAW 5 CFR 213.3202(o) Individual has been in the program for two years. This was an administrative oversight." (b) (6), (b) (7)(C) was identified on the document. It was signed approved by (b) (6), (b) (7)(C) on 25 November 2009.

(12) On 12 September 2010, according to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, as a part of his career-ladder progression, (b) (6), (b) (7)(C) was non-competitively promoted from a GS-1102-11 to a GS-1102-12 - at which point, documents for which his name was associated were submitted for the PMAB's approval of his promotion.

(13) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB) #310-10 on 27 July 2010 stating, "Request career ladder promotion for a Contract Specialist in the Contracting Department. Employee has met all of the

requirements to be promoted to the target grade." (b) (6), (b) (7)(C) was identified on the document. It was signed approved by (b) (6), (b) (7)(C) on 29 July 2010.

(14) On two separate occasions, (b) (6), (b) (7)(C) as the leading member of the PMAB, approved the requests for conversion to competitive service and the promotion of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) in and to civilian positions.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(7) any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative of such employee if such position is in the agency in which such employee is serving as a public official or over which such employee exercises jurisdiction or control as such an official.

(2) After the date of 7 November 2009, (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) met the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(3) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) conversion and promotions, serving as a public official, as defined in 5 USC 3110(a)(2), and was in a position to exercise jurisdiction or control as such an official.

(4) On two separate occasions, (b) (6), (b) (7)(C) personally approved personnel actions concerning her (b) (6), (b) (7)(C). Specifically, she granted written approval for his appointment to the competitive service and his promotion from GS-11 to GS-12, in violation of 5 USC 3110 and 5 USC 2302(b)(7).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

6. Fourth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(8), "Basic Obligation of Public Service", by providing preferential treatment to her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), in her pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN), during the time period of May 2006 and present. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(3) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she has direct influence over and intimate involvement with the personnel matters of the

organization. (b) (6), (b) (7)(C) has been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN.

(4) According to (b) (6), (b) (7)(C) testimony, she learned of the summer hire position at NAVSUP FLCN through her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) who put her into contact with (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C).

(5) In regard to her (b) (6), (b) (7)(C) initial summer employment at NAVSUP FLCN, (b) (6), (b) (7)(C) stated, "She told me she was interested in working so I said, 'You have to contact various people at the center and deal with them directly,' and she did."

(6) In her interview with Investigating Officers (IO), (b) (6), (b) (7)(C) stated, in regards to (b) (6), (b) (7)(C) involvement in her hire, "She was my initial foot in the door, I think, at that point. She told me the job existed and I said I was interested, so I'm sure she went to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). The conversation was probably along the lines of, 'Hey, (b) (6), (b) (7)(C) interested. I know we're doing this. Are there any spots open?' Then she gave me the contacts. I don't know if I'd use the word advocated. I think it was more of an exchange of information."

(7) (b) (6), (b) (7)(C) at that time, held the position of (b) (6), (b) (7)(C), in which capacity she was directly responsible for all personnel actions within Code 200 - the code into which (b) (6), (b) (7)(C) was initially and subsequently hired - and had direct knowledge of its summer hire requirements and influence over the selections.

(8) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(9) NAVSUP FLCN then processes candidates received through that practice as by-name requests.

(10) In keeping with such practices (b) (6), (b) (7)(C) initial summer hire as a GS-0344-04, effective 15 May 2006, was processed as a by-name request, at which point, her name was present on documents submitted to the PMAB for approval.

(11) On 17 September 2007, according to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, she was reappointed as a summer hire, GS-0344-05, not to exceed 17 September 2008, through an additional by-name request.

(12) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #369-08, on 20 August 2008 stating, "Request extension of student hire on excepted appointment NTE 30 Sep 09." (b) (6), (b) (7)(C) who was then (b) (6), (b) (7)(C), was identified in the document. It was submitted by (b) (6), (b) (7)(C) a direct report to the (b) (6), (b) (7)(C) for civilian matters, and signed approved on the ED decision line by (b) (6), (b) (7)(C), also a direct report to the (b) (6), (b) (7)(C).

(13) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, her summer hire appointment was extended 17 September 2008, not to exceed 30 September 2009 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(14) On 2 August 2009, according to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, she was converted to an excepted appointment, from a GS-0344-05 to a YA-0343-01, under a Federal Career Intern Program (FCIP) certificate of eligibles.

(15) Twelve days after her appointment to the FCIP career-ladder position, on 14 August 2009, according to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, a request was made to reassign (b) (6), (b) (7)(C) from her recently appointed YA-0343-01 Program Analyst position to a GS-1102-07 Contract Specialist position, effective 30 August 2009. At that point, the request for (b) (6), (b) (7)(C) reassignment was submitted to the PMAB with (b) (6), (b) (7)(C) identified in required documents.

(16) During her interview with the IOs, (b) (6), (b) (7)(C) did not acknowledge the YA-0343-01 position to which she was initially appointed, but referred only to the GS-1102-01 position to which she was ultimately reassigned.

(17) In regard to her appointment to the FCIP career-ladder position, (b) (6), (b) (7)(C) stated, "I think they just picked me up from being part-time to full-time. I didn't have to apply."

(18) The certificate from which (b) (6), (b) (7)(C) was selected was the product of a job announcement that was not advertised by the Office of Personnel Management (OPM) and could only have been accessed through the link provided by OPM.

(19) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate hiring authority within NAVSUP FLCN.

(20) When asked whether she was provided a link to an application questionnaire, (b) (6), (b) (7)(C) testified, "Oh, I'm sure they did. It might have been (b) (6), (b) (7)(C) or (b) (6). I think one of them gave me the link. They said you have to provide this, this, and this, and take this questionnaire to be switched over."

(21) (b) (6), (b) (7)(C) testified that there was no particular announcement or Solicitation of Interest (SOI) for her position and that she did not need to apply: "I just expressed interest to (b) (6), (b) (7)(C) and, at that time, I was working for her, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). I was their Administrative Assistant and I expressed to her that I was interested in moving into the contracting career field. She said, since I was already a government employee, I just had to prove those qualifications and then I could basically be reassigned into the contracting career field."

(22) The 1102 Contract Specialist series requires candidates to have completed a four year college degree, as well as 24 business credit hours in order to be deemed eligible for appointment.

(23) (b) (6), (b) (7)(C) completed her coursework to meet the 24 business credit hour requirement on 28 July 2009, indicated on her transcript from Tidewater Community College dated 14 August 2009.

(24) In regards to the ease of the hiring process in the case of her appointment to the 1102 career-ladder position, (b) (6), (b) (7)(C) stated, "I don't think that took very long either because I got my credits over that summer and then I

submitted my whole package and then, maybe within a month, I was converted to the 1102 series."

(25) (b) (6), (b) (7)(C) was selected for the YA-0343-01 career-ladder position from Certificate #AN-09-MFL-06497S0 - on which there were only four candidates.

(26) Three of the four candidates on Certificate #AN-09-MFL-06497S0 - (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C) - were relatives of individuals employed by NAVSUP FLCN at the time of the candidates' application, as well as the certificate issuance.

(27) All three of the candidates with familial relations to NAVSUP FLCN employees were hired. The candidate with no known familial relations was not selected.

(28) Witness statements to the IOs indicated that (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) - enjoy the privilege of (b) (6), (b) (7)(C) assigned parking space when she is out of the office.

(29) Parking at NAVSUP FLCN is very limited and the majority of the command's employees must park in two overflow parking lots - one of which requires employees to take a shuttle bus to the office building.

(30) (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C) confirmed that the two (b) (6), (b) (7)(C) use their (b) (6), (b) (7)(C) parking space when (b) (6), (b) (7)(C) is not in the office.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment - as well as her subsequent extensions, reassignment, and promotions - serving as a public official and held a position of influence within NAVSUP FLCN.

(3) Because NAVSUP FLCN's summer hire program is advertised by word-of-mouth only, (b) (6), (b) (7)(C) would not have learned of the employment opportunity had her (b) (6), (b) (7)(C) not been employed by the organization and directly afforded her the contact information for (b) (6), (b) (7)(C) whom had influence over the selections.

(4) By placing her (b) (6), (b) (7)(C) in contact with a subordinate, (b) (6), (b) (7)(C) who subsequently set the (b) (6), (b) (7)(C) up with employment, (b) (6), (b) (7)(C) afforded her (b) (6), (b) (7)(C) an opportunity for summer student employment that was only extended on a selective basis to those with connections with NAVSUP FLCN management. (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C) an advantage over other applicants or potential candidates, such as military dependents or the general population of college students, who had no means of knowing that summer employment was offered at NAVSUP FLCN.

(5) (b) (6), (b) (7)(C) and her (b) (6), (b) (7)(C) enjoy privileges such as reserved parking as a result of their familial ties to the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(6) Although (b) (6), (b) (7)(C) conversion from a student hire to an FCIP appointment and subsequent reassignment to the 1102 series appears to have occurred without any direct involvement of (b) (6), (b) (7)(C) she nonetheless received preferential treatment in simply being "switched over" to the career position. (b) (6), (b) (7)(C) was responsible for creation of an implicit policy affording favorable treatment for friends and family of senior management. By simply being "switched over" from a student appointment to a career position, (b) (6), (b) (7)(C) directly benefitted from these policies.

(7) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

7. Fifth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b) (8), "Basic Obligation of Public Service", by providing preferential treatment to her (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) in her pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN), during the time period of March 2011 and present.
Substantiated.

a. Facts

(1) 5 CFR 2635.101(b) (8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the daughter of (b) (6), (b) (7)(C)

(3) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she has direct influence over and intimate involvement with the personnel matters of the organization. (b) (6), (b) (7)(C) has been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN.

(4) In regard to her daughter's initial summer employment at NAVSUP FLCN, (b) (6), (b) (7)(C) stated, "(b) (6), (b) (7)(C) told me she was interested in working, so I told her to contact some people if she wanted to."

(5) According to the testimonies of both (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) contacted (b) (6), (b) (7)(C)

(6) (b) (6), (b) (7)(C) at that time, held the position of (b) (6), (b) (7)(C) in which capacity she had influence over all personnel actions throughout NAVSUP FLCN and, in particular, was directly responsible for all personnel actions within Code 300 - the code into which (b) (6), (b) (7)(C) was initially hired. In this capacity, (b) (6), (b) (7)(C) had direct knowledge of the summer hire requirements and influence over the selections.

(7) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(8) NAVSUP FLCN then processes candidates received through that practice as by-name requests.

(9) In keeping with such practices and according to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, her initial summer hire, effective 24 May 2011 and not to exceed 30 September 2011, was processed as a by-name request, at which point, her name was present on documents submitted to the PMAB for approval.

(10) NAVSUP FLCN Code 300 submitted a Position Management Tracking Form (PMAB), #118-11, on 21 April 2011 stating, "Recruit a Management Assistant, GS-0344-05 student hire in the Business Support Department NTE 30 September 2011." (b) (6), (b) (7)(C) was identified as a by-name request on the line for "Recruit Area of Consideration." The document was signed approved by (b) (6), (b) (7)(C) on 21 April 2011. (b) (7)(C)

(11) According to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, her summer hire appointment was extended 1 October 2011, not to exceed 30 September 2012 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(12) NAVSUP FLCN Code 300 submitted a Position Management Tracking Form (PMAB), #288-11, on 29 July 2011 with the following justification: "Extend Student Appointment." (b) (6), (b) (7)(C) was identified on the documents which were signed approved by her (b) (6), (b) (7)(C) on 05 August 2011.

(13) (b) (6), (b) (7)(C) summer hire appointment was extended 01 October 2012, not to exceed 30 September 2013 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(14) Witness statements to the IOs indicated the (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) - enjoy the privilege of (b) (6), (b) (7)(C) assigned parking space when she is out of the office.

(15) Parking at NAVSUP FLCN is very limited and the majority of the command's employees must park in two overflow parking lots - one of which requires employees to take a shuttle bus to the office building.

(16) (b) (6), (b) (7)(C) confirmed in her statement to the IOs that the two (b) (6), (b) (7)(C) use their (b) (6), (b) (7)(C) parking space when she is not in the office.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b) (8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment - as well as her

subsequent extensions - serving as a public official and held a position of influence within NAVSUP FLCN.

(3) Because NAVSUP FLCN's summer hire program is advertised by word-of-mouth only, (b) (6), (b) (7)(C) would not have learned of the employment opportunity had her (b) (6), (b) (7)(c) not been employed by the organization and directly afforded her that information.

(4) By granting PMAB approval of (b) (6), (b) (7)(C) selection for a student position, (b) (6), (b) (7)(C) afforded her (b) (6), (b) (7)(c) an opportunity for summer student employment that was only extended on a selective basis, to those with connections with NAVSUP FLCN management. (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C) an advantage over other applicants or potential candidates, such as military dependents or the general population of college students, who had no means of knowing that summer employment was offered at NAVSUP FLCN.

(5) Following her initial hire, (b) (6), (b) (7)(C) extensions were built upon the foundation of a student employment that had been acquired by means of preferential treatment from her (b) (6), (b) (7)(c) (b) (6), (b) (7)(C)

(6) (b) (6), (b) (7)(C) and her (b) (6), (b) (7)(c) enjoy privileges such as reserved parking as a result of their familial ties to the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(7) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

8. Sixth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(8), "Basic Obligation of Public Service", by providing preferential treatment to (b) (6), (b) (7)(C), in his pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN), during the time period of July 2007 and present. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) According to (b) (6), (b) (7)(C), the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) testimony, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) were dating at the time of (b) (6), (b) (7)(C) application for employment with NAVSUP FLCN and lived together at the time of his subsequent hire. (b) (6), (b) (7)(C) testified, "My (b) (6), (b) (7)(c) and myself lived together when I moved here. We rented a house. I didn't know anyone down here. All of my family is in (b) (6), (b) (7)(c) "

(3) (b) (6), (b) (7)(C) testified that she and (b) (6), (b) (7)(C) were married on 7 (b) (6), (b) (7)(c)

(4) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is currently the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C)

(5) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she has direct influence over and intimate involvement with the personnel matters of the organization. (b) (6), (b) (7)(C) has been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN.

(6) According to (b) (6), (b) (7)(C) testimony, he learned of the position at NAVSUP FLCN through (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) of his then girlfriend.

(7) (b) (6), (b) (7)(C) stated, "(b) (6), (b) (7)(C) told me about the job - that there was Contract Specialist positions opening up - and she explained to me what the job did, what kind of work it would be, and it sounded like something I'd be interested in doing."

(8) (b) (6), (b) (7)(C) also stated: "There was no announcement. She told me there was an opening coming open on USAjobs in the next couple weeks and to monitor USAjobs. So, I just monitored USAjobs for a couple weeks and it was about a week and a half and it popped up on USAjobs, so I submitted my resume and all my supporting documents on there."

(9) (b) (6), (b) (7)(C) testified, "When I was applying, it was all submitted online through USAjobs and then, when I got here, I submitted my birth certificate and all of that to HRO. Other than that, I didn't submit anything to anyone else."

(10) According to an email dated 16 July 2007, (b) (6), (b) (7)(C) submitted his resume and transcript for application to Announcement #145562 via email to (b) (6), (b) (7)(C) of HRO Norfolk.

(11) A review of all NAVSUP FLCN Certificate of Eligibles issued by the Office of Personnel Management (OPM) from 2006 until the present, found that (b) (6), (b) (7)(C) first appeared on Certificates of Eligibles #AN-07-MFL-01846S0 and #AN-07-MFL-01847S0, dated 30 July 2007 - both of which were not advertised on USAjobs and were the result of Announcement #145562, to which (b) (6), (b) (7)(C) had applied via email.

(12) Certificate #AN-07-MFL-01846S0, for a GS-1102-05, produced 11 candidates, within which (b) (6), (b) (7)(C) ranked 9th by OPM. Certificate #AN-07-MFL-01847S0, for a GS-1102-07, produced 19 candidates, within which (b) (6), (b) (7)(C) ranked 15th by OPM.

(13) On 31 July 2007, both Certificates #AN-07-MFL-01846S0 and #AN-07-MFL-01847S0 were returned without selection, per (b) (6), (b) (7)(C) Justification for the cancellation cited NAVSUP's discontinuation of the issuance of waivers for education requirements of contract specialist interns, although all of the candidates ultimately selected were initially present on the cancelled Certificates of Eligibles and did possess the educational requirements of the 1102 series, generating no need for waivers from NAVSUP.

(14) On that same day, 31 July 2007, additional Certificates of Eligibles were requested and issued. (b) (6), (b) (7)(C) appeared on those additional OPM-issued Certificates of Eligibles - Certificate #AN-07-MFL-01857S0, for a GS-1102-05, and Certificate #AN-07-MFL-01858S0, for a GS-1102-07. This time, he was ranked 8 of 10 candidates and 13 of 17 candidates, respectively. Neither of

those announcements was advertised on USAjobs and both were a result of the same announcement to which he previously applied via email, #145562.

(15) According to his SF-50, effective 5 September 2007, (b) (6), (b) (7)(C) was appointed to an excepted appointment, GS-1102-07, and was selected to said appointment from the Contract Specialist Federal Career Intern Program (FCIP) Certificate of Eligibles dated 31 July 2007 (#AN-07-MFL-01858S0).

(16) The certificate from which (b) (6), (b) (7)(C) was selected was the product of a job announcement that was not advertised by the Office of Personnel Management (OPM) and could only have been accessed through a link provided by OPM.

(17) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate hiring authority within NAVSUP FLCN.

(18) Only potential applicants to whom the link was provided would have had knowledge of the announcement or access to the application. The testimony of witnesses indicates that (b) (6), (b) (7)(C) was provided this link by (b) (6), (b) (7)(C) then the (b) (6), (b) (7)(C), after (b) (6), (b) (7)(C) provided her the name of (b) (6), (b) (7)(C).

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment - as well as his subsequent promotions - serving as a public official and held a position of influence within NAVSUP FLCN.

(3) Contrary to (b) (6), (b) (7)(C) statements, made under oath, that he found the open position through a search of USAjobs and applied for the job solely through the site, evidence shows that he did, in fact, receive a link to the specific job announcement, #145562, to which he applied and from which he was selected for hire.

(4) Because NAVSUP FLCN did not advertise the GS-1102 position in question, (b) (6), (b) (7)(C) could only have learned of the employment opportunity if (b) (6), (b) (7)(C) or someone under her command, directly afforded him that (c) information.

(5) (b) (6), (b) (7)(C) did not acknowledge being provided a link to apply for the position with NAVSUP FLCN and was adamant that he found the open position and applied by way of a USAjobs search. However, this statement was one that was found to be made falsely under oath, as the announcement from which he was selected was not advertised and, therefore, would have been impossible to have been found via a search of USAjobs.

(6) Furthermore, the email submission by (b) (6), (b) (7)(C) of his resume and transcript to (b) (6), (b) (7)(C) of HRO Norfolk, dated 16 July 2007, directly contradicts (b) (6), (b) (7)(C) assertions that he applied solely through the USAjobs site.

(7) The only way for (b) (6), (b) (7)(C) to have accessed the application for the position to which he was hired was by way of a link, which originated at OPM and would have to have been personally passed to (b) (6), (b) (7)(C) by (b) (6), (b) (7)(C) or someone under (b) (6), (b) (7)(C) command.

(8) (b) (6), (b) (7)(C) was one of only 17 candidates on the Certificate of Eligibles produced by the non-published Announcement #145562, from which he was selected. Such a low number of applicants suggests limited distribution of that link to targeted individuals - illustrating additional preferential treatment.

(9) By nature of the actions taken by (b) (6), (b) (7)(C) in regards to (b) (6), (b) (7)(C) employment with NAVSUP FLCN, in correlation to the position of authority she held within the organization, (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C) an unfair advantage over other applicants or potential candidates, in violation of 5 CFR 2635.101(b)(8).

(10) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

9. Seventh Allegation: That (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) within the NAVSUP Fleet Logistics Center Norfolk, has facilitated the hire of three of her family members by the organization and has subsequently created the appearance that the law or the ethics standards have been violated, in violation of Title 5, Code of Federal Regulations, Section 2635.101(b)(14), "Basic Obligation of Public Service". **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(14) states that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) Under (b) (6), (b) (7)(C) leadership, her two (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) were appointed, promoted, and advanced within NAVSUP FLCN:

- (a) (b) (6), (b) (7)(C), GS-1102-11
- (b) (b) (6), (b) (7)(C), GS-1102-12
- (c) (b) (6), (b) (7)(C), GS-0344-05

(3) The following actions by (b) (6), (b) (7)(C) created the reasonable perception that these individuals received preferential treatment:

(a) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) - enjoy the privilege of (b) (6), (b) (7)(C) assigned parking space when she is out of the office. Parking at NAVSUP FLCN is very limited and the majority of the command's employees must park in two overflow parking lots - one of which requires employees to take a shuttle bus to the office building.

(b) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) were given opportunities under FCIP and STEP that were not offered to the general public.

b. Analysis/Discussion/Conclusion

(1) As the (b) (6), (b) (7)(C) of the organization with full authority over personnel matters and resources allocation within the command, (b) (6), (b) (7)(C) has a duty to "place loyalty to the Constitution, laws and ethical principles above private gain" and to "act impartially and not give preferential treatment to any private organization or individual".

(2) By regularly giving a government parking space reserved for senior personnel to her relatively junior (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) extended a highly desirable perk for the select benefit of her family.

(3) (b) (6), (b) (7)(C) actions and involvement in the employment, promotion, and advancements of her relatives has created the appearance of improprieties by means of violations of civil service laws, rules, and regulations, in violation of 5 CFR 2635.101(b) (14).

(4) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

10. Eighth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2302(c) by failing to prevent prohibited personnel practices and ensure NAVSUP Fleet Logistics Center Norfolk's (FLCN) compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management during the time period of March 2006 until the present. **Substantiated.**

a. Facts

(1) 5 USC 2302(c) states that the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she is the (b) (6), (b) (7)(C) of that agency and has been delegated authority for personnel management.

(3) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. The PMAB membership consists of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(4) (b) (6), (b) (7)(C) is the leading member of the PMAB.

(5) As documented in the foregoing findings, the following Prohibited Personnel Practices and other civil service laws, rules, and regulations were found to have been violated:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

(6) During the course of this investigation, the following civil service laws, rules, and regulations were found to have been violated by (b) (6), (b) (7)(C) in particular:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(c), the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management.

(2) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of NAVSUP FLCN and is, therefore, responsible for the prevention of prohibited personnel practices and for the compliance with and enforcement of applicable civil service laws, rules, and regulations.

(3) As the (b) (6), (b) (7)(C) - the ultimate approving authority for all personnel actions within NAVSUP FLCN - (b) (6), (b) (7)(C) has direct influence over and intimate involvement with the personnel matters of the organization. In such a capacity, (b) (6), (b) (7)(C) would have been aware of the hiring and personnel practices taking place within her organization.

(4) On various occasions throughout her tenure as (b) (6), (b) (7)(C) NAVSUP FLCN, (b) (6), (b) (7)(C) failed to prevent prohibited personnel practices and violations of applicable civil service laws, rules, and regulations, in violation of 5 USC 2302(c).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

11. Ninth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program", by not properly executing the Student Temporary Employment Program (Schedule B 213.3202(a)) at NAVSUP Fleet Logistics Center Norfolk (FLCN) and subsequently allowing the employment of students in the same agency with a relative in a position to influence or control the student's appointment, employment, promotion or advancement within the agency, during the time period of August 2007 and present. **Substantiated.**

a. Facts

(1) 5 CFR 213.3202(a)(7)(2007), "Employment of relatives" states that "a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency."

(2) The following specific actions under the Student Temporary Employment Program were improper because, in each instance, the student had a relative in the agency "in a position to influence or control the student's appointment, employment, promotion or advancement":

(a) (b) (6), (b) (7)(C) initial summer hire as a GS-0344-04, effective 15 May 2006. Her (b) (6), (b) (7)(C) the NAVSUP FLCN (b) (6), (b) (7)(C) was in a position to influence or control the student's employment.

(b) The extension of (b) (6), (b) (7)(C) student appointment in August 2008, NTE 30 Sep09." Her (b) (6), (b) (7)(C) the NAVSUP FLCN (b) (6), (b) (7)(C) was in a position to influence or control the student's employment.

(c) The 21 April 2011 GS-0344-05 student hire of (b) (6), (b) (7)(C) signed approved by (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) on 21 April 2011.

(d) The 29 July 2011 extension of (b) (6), (b) (7)(C) student appointment. Her (b) (6), (b) (7)(C), the NAVSUP FLCN (b) (6), (b) (7)(C) was in a position to influence or control the student's employment.

(e) The 01 October 2012 extension of (b) (6), (b) (7)(C) student appointment. Her (b) (6), (b) (7)(C) the NAVSUP FLCN (b) (6), (b) (7)(C) was in a position to influence or control the student's employment.

(f) The 19 May 2008 summer hire of (b) (6), (b) (7)(C) into a position in NAVSUP FLCN Code 200, at a time when his (b) (6), (b) (7)(C), held the position of (b) (6), (b) (7).

(g) The 15 June 2009 reappointment of (b) (6), (b) (7)(C) as a summer hire, GS-0344-05, in Code 200, at a time when his (b) (6), (b) (7)(C) was (b) (6), (b) (7)(C). As (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was in a position to influence or control her (b) (6), (b) (7)(C) employment.

(h) (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) was employed as a GS 0344-04 Management Clerk summer hire effective 12 July 2010 in the Contracting Department of NAVSUP FLCN. His (b) (6), (b) (7)(C) was in a position to influence or control his employment.

(i) (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was employed as a Management Clerk, GS-0344-03, summer hire effective 20 June 2011 in the Contracting Department of NAVSUP FLCN. At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) in which capacity she was responsible for all personnel matters within NAVSUP FLCN.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 213.3202(a) (7) (2007), employment of relatives: In accordance with 5 CFR part 310, a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(3) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(4) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(5) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(6) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

¹ It is noteworthy that (b) (6), (b) (7)(C) may have been improperly advised by HRO on the legal restrictions of the Student Hire Program. (b) (6), (b) (7)(C) testified that she asked HRO if it was ok to hire (b) (6), (b) (7)(C) in NAVSUP FLCN Code 200, stating that, "I had the same concerns when (b) (6), (b) (7)(C) was hired and she (b) (6), (b) (7)(C) said we were fine, even though he was ultimately in my chain since I was running things. She said there had to be people between you so that you were supervising the people between you. There was branch head and a division director in between." It appears (b) (6), (b) (7)(C) correctly advised that "direct supervision" was not permitted, but neglected to advise about the prohibition against being employed if a relative "was in a position to influence or control the student's employment."

(7) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) appointments - as well as their subsequent extensions - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(8) As a key member of the PMAB, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(9) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN Code 200.

(10) (b) (6), (b) (7)(C) guidance to (b) (6), (b) (7)(C) regarding the hiring of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) within her department, violated Title 5, Code of Federal Regulations, Section 213.3202(a) (7) (2007), "Student Educational Employment Program"

(11) As a key member of the NAVSUP FLCN's PMAB, a (b) (6), (b) (7)(C) Human Resources Specialist, and the manager of the satellite office of the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) failed to provide proper guidance to NAVSUP FLCN management as indicated by the hiring of 5 relatives, 3 of the relatives related to members of the PMAB, violated Title 5, Code of Federal Regulations, Section 213.3202(a) (7) (2007), "Student Educational Employment Program".

(12) As the (b) (6), (b) (7)(C) of NAVSUP FLCN and a lead member of the PMAB, (b) (6), (b) (7)(C) approved the appointment, employment, and subsequent extension of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) and allowed the appointment, employment, and subsequent extension of others with relatives in a position to influence or control the student's appointment, employment, promotion or advancement within the agency in violation of Title 5, United States Code, Section 213.3202(a) (7) (2007).

(13) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

12. Tenth Allegation: That (b) (6), (b) (7)(C) Contractor, violated Title 5, United States Code, Section 2302(b) (7), and Title 5, United States Code, Section 3110(b) by appointing and employing his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), GS-12, in and to a civilian position in the NAVSUP Fleet Logistics Center Norfolk (FLCN), the agency in which (b) (6), (b) (7)(C) a GS-15 at the time, was serving as a public official and exercising jurisdiction or control as such an official, during the time period beginning in March 2006 until his retirement in 2009.

Substantiated.

a. Facts

(1) (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(2) At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) was the (b) (6), (b) (7)(C) NAVSUP FLCN, in which capacity he had been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN.

(3) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed.

(4) At the time of (b) (6), (b) (7)(C) initial hire, the PMAB membership consisted of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C)

(5) (b) (6), (b) (7)(C) initial summer hire as a GS-0344-04, effective 4 June 2007, was processed as a by-name request, at which point, his name should have been present on documents submitted to the PMAB for approval.

(6) The investigation has not located the PMAB form pertaining to (b) (6), (b) (7)(C) summer appointment in 2007. It is highly probable that (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) and a member of the PMAB, participated in and approved the initial by-name summer hire appointment request for his (b) (6), (b) (7)(C) (b) (6), (b) (7)(C).

(7) A letter, dated 15 May 2007, from (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) - the university in which (b) (6), (b) (7)(C) was enrolled at the time of his hire - verified (b) (6), (b) (7)(C) student status and was addressed directly to (b) (6), (b) (7)(C) - indicating (b) (6), (b) (7)(C) was directly involved, on behalf of NAVSUP FLCN, in the mechanics of verifying (b) (6), (b) (7)(C) eligibility for employment as a student hire.

b. Analysis/Discussion/Conclusion

(1) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(2) As the (b) (6), (b) (7)(C) NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment, serving as a public official, as defined in 5 USC 3110(a) (2), and was in a position to exercise jurisdiction or control as such an official.

(3) The letter of 15 May 2007 from (b) (6), (b) (7)(C) school addressed directly to (b) (6), (b) (7)(C) indicates even further involvement of (b) (6), (b) (7)(C) in the appointment and employment of his (b) (6), (b) (7)(C) to a civilian position within NAVSUP FLCN.

(4) As a member of the PMAB and the (b) (6), (b) (7)(C) it is highly likely that (b) (6), (b) (7)(C) personally approved the appointment and employment of his (b) (6), (b) (7)(C), in violation of Title 5, United States Code, Section 2302(b) (7) and Title 5, United States Code, Section 3110(b).

(5) In the absence of any evidence that indicates (b) (6), (b) (7)(C) was recused from this action, the investigation must assume he executed the duties of a PMAB member and (b) (6), (b) (7)(C) and participated in the selection of his (b) (6), (b) (7)(C) for a position. Consequently, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

13. Eleventh Allegation: That (b) (6), (b) (7)(C) failed to comply with Title 5, Code of Federal Regulations, Section 213.3202(a) (7) (2007), "Student Educational Employment Program", by not properly executing the Student Temporary Employment Program (Schedule B 213.3202(a)) at NAVSUP Fleet Logistics Center Norfolk (FLCN) and subsequently allowing the employment of students in the same agency with a relative in a position to influence or control the student's appointment, employment, promotion or advancement within the agency, during the time period of August 2007 and until his retirement in 2009. **Substantiated.**

a. Facts

(1) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) held a position in which he could influence or control the employment of his (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), who was employed at NAVSUP FLCN in June 2007.

(2) As a PMAB member, (b) (6), (b) (7)(C) approved the initial summer hire of (b) (6), (b) (7)(C) initial summer hire as a GS-0344-04, effective 15 May 2006, even though her (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C), was in a position to influence or control (b) (6), (b) (7)(C) employment. He also participated in her reappointments as a student hire on 17 September 2007 and on 20 August 2008

(3) As a PMAB member, (b) (6), (b) (7)(C) approved the summer hire of (b) (6), (b) (7)(C) as a GS-0344-05, effective 19 May 2008, even though (b) (6), (b) (7)(C) was assigned to Code 200, which was supervised by (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). He also approved an extension of such employment on 20 August 2008.

(4) As (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) had authority over all personnel actions with NAVSUP FLCN. Consequently, he was in a position to influence or control the employment of his (b) (6), (b) (7)(C) in Code 200.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 213.3202(a) (7) (2007), employment of relatives: In accordance with 5 CFR part 310, a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(3) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(4) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(5) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment - as well as her subsequent extensions - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(6) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN Code 200.

(7) As the (b) (6), (b) (7)(C) and a key member of the PMAB, (b) (6), (b) (7)(C) approved the employment, of his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and allowed the appointment, employment, and subsequent extension of others with relatives in a position to influence or control the student's appointment, employment, promotion or advancement within the agency in violation of Title 5, United States Code, Section 213.3202(a) (7) (2007).

(8) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

14. Twelfth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b) (8), "Basic Obligation of Public Service", by providing preferential treatment to his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), GS-12, in his pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN), the agency in which (b) (6), (b) (7)(C) was serving as a GS-15, during the time period of March 2006 and until his retirement in 2009. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b) (8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) According to the testimonies of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), as well as (b) (6), (b) (7)(C), Optional (b) (6), (b) (7)(C) - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(3) (b) (6), (b) (7)(C) at the time of (b) (6), (b) (7)(C) hire, held the position of (b) (6), (b) (7)(C) in which capacity he was directly responsible for all personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(4) Despite statements made by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) IOs found little evidence to validate their claims that efforts were made on their parts to recruit for FCIP interns at local colleges and universities.

(5) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for their summer hire program on their own.

(6) In regard to how he learned of the open position with NAVSUP FLCN, (b) (6), (b) (7)(C) stated, "I was informed of the opening by my (b) (6), (b) (7)(C) who was in Code 300 at the time, in addition to my (b) (6), (b) (7)(C) who was an intern that had recently been hired about a year or year and a half before I got here."

(7) The certificate from which (b) (6), (b) (7)(C) was selected was the product of a job announcement that was not advertised by the Office of Personnel

Management (OPM) and could only have been accessed through the link provided by OPM.

(8) In his interview with the IOs, (b) (6), (b) (7)(C) stated, "I was emailed a link to, I think, what now is USAjobs, I think to the information that was required to be considered for the position."

(9) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate management official within NAVSUP FLCN.

(10) As to how he personally received the link, (b) (6), (b) (7)(C) testified, "I believe my (b) (6), (b) (7)(c) was the one that emailed me the information and then I spoke with my (b) (6), (b) (7)(c) about the job, daily duties, etc., before I submitted my resume for consideration."

(11) Certificate of Eligibles #AN-07-DPG-01434S0, dated 17 January 2007, for a GS-1102-07, was advertised by OPM and produced 65 candidates, of which 12 were veterans.

(12) Approximately three months later, on 16 March 2007, the Certificate of Eligibles from which (b) (6), (b) (7)(C) was ultimately selected, #AN-132793, and which NAVSUP FLCN chose not to advertise, produced just six candidates, of which only one was a veteran. Additionally, four of the six candidates had familial ties to NAVSUP FLCN or the greater NAVSUP community, with an additional candidate whom had a known association with an employee in the servicing HRO.

(13) (b) (6), (b) (7)(C) initially testified that he moved to Virginia Beach, Virginia, from (b) (6), (b) (7)(c) around the end of February 2007 specifically for the position at NAVSUP FLCN; although, over the course of his interview with the IOs, (b) (6), (b) (7)(C) made numerous conflicting statements.

(14) (b) (6), (b) (7)(C) testified that, at the time of his move to Virginia Beach, he moved in with his (b) (6), (b) (7)(c), (b) (6), (b) (7)(C)

(15) (b) (6), (b) (7)(C) testified to the IOs, "I applied for the position, I'd say in, I believe, in November. I was sent an email sometime in January-ish saying I was hired. I moved here then my paperwork was lost somewhere in HR and that delayed my hire."

(16) (b) (6), (b) (7)(C) denied being given any guarantee of a position at NAVSUP FLCN and stated, in regards to his changing account of events, "Thinking back 6 years is really hard. I was never given any sort of indication that I was hired."

(17) Later in the interview, (b) (6), (b) (7)(C) cited the reason for his move to the area was not for the job at NAVSUP FLCN, as previously stated, but rather to live with (b) (6), (b) (7)(C); answering the question of why he would make such a move if he didn't have a guaranteed job, "Well, my (b) (6), (b) (7)(c) lives here."

(18) To counter his conflicting statements, (b) (6), (b) (7)(C) stated, "I was having issues in (b) (6), (b) (7)(c) - waiting tables, (b) (6), (b) (7)(c). I moved here, I don't remember when HRO notified me. Again, I don't remember six and a half

years ago. I don't know when HRO sent me an email. I don't know when I was hired. I don't remember that information."

(19) Ultimately, after being confronted about the variations in his account of events, (b) (6), (b) (7)(C) contradicted his earlier statements and testified, "I didn't move here in January/late January/February for the job because I didn't have the job."

(20) On 16 April 2007, (b) (6), (b) (7)(C) was appointed to an excepted appointment, GS-1102-05, under the Federal Career Intern Program (FCIP) hiring authority.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b) (8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) The exceedingly low yield of six candidates produced by AN-132793 of 16 March 2007 in comparison with the 65 candidates produced by AN-07-DPG-01434S0 of 17 January 2007 - both within a three month time span - shows that there was a healthy market for GS-1102-07 eligible candidates at the time and, therefore, indicates a very limited distribution of the unadvertised 16 March 2007 announcement, from which (b) (6), (b) (7)(C) was selected for hire. Such a low number of applicants on AN-132793 suggests limited distribution to targeted individuals.

(3) Further validating a selective distribution of the link was the fact that five of the six candidates on the 16 March Certificate of Eligibles had either familial ties to the NAVSUP community or known associations with individuals in the NAVSUP FLCN building.

(4) Because NAVSUP FLCN's intern program was advertised by word-of-mouth only, (b) (6), (b) (7)(C) would not have learned of the employment opportunity had his (b) (6), (b) (7)(C) not been employed by the organization and directly afforded him access to the announcement and application by selectively distributing the link to his (b) (6), (b) (7)(C)

(5) As the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment - as well as his subsequent promotions - serving as a (b) (6), (b) (7)(C) public official and held a position of influence within NAVSUP FLCN.

(6) (b) (6), (b) (7)(C) participation in the selective distribution of the link to the application for employment at NAVSUP FLCN to his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C) an unfair advantage over other potential candidates, in violation of 5 CFR 2635.101(b) (8).

(7) Following his initial hire, (b) (6), (b) (7)(C) advancements, such as his promotions within his FCIP career ladder position - which were personally approved by (b) (6), (b) (7)(C) - were built upon the foundation of an employment that had been acquired by means of preferential treatment from his (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(8) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

15. **Thirteenth Allegation:** That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b) (8), "Basic Obligation of Public Service", by providing preferential treatment to (b) (6), (b) (7)(C) in his pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN), during the time period in and around September 2007 and until (b) (6), (b) (7)(C) retirement in and around 2009. Substantiated.

a. Facts

(1) 5 CFR 2635.101(b) (8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) in which capacity he was directly responsible for all personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(3) In response to how he learned of the open GS-1640-05/07 position with NAVSUP FLCN, (b) (6), (b) (7)(C) testified, "Through a friend of the family - (b) (6), (b) (7)(C). They put it out on USAjobs, but he knew that the previous facilities guy was retiring so I applied."

(4) According to the Position Fill Request Form for the position to which (b) (6), (b) (7)(C) was initially appointed, (b) (6), (b) (7)(C) was the Selecting Official for (b) (6), (b) (7)(C) hire.

(5) In an email dated 25 September 2007, (b) (6), (b) (7)(C), a Human Resource (HR) Specialist with Human Resource Office (HRO) Norfolk - FLCN Satellite Office, wrote to (b) (6), (b) (7)(C) that she had reviewed (b) (6), (b) (7)(C) resume and then proceeded to advise (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) qualifications for the GS-05 versus GS-07 levels of the open position: "He indicates he has a bachelor degree from ODU. The degree would qualify him for the GS-5 level. If he has a GPA of 3.0 or higher, he could qualify at the GS-07 level. If he does not have the 3.0 GPA, we could use one year of specialized experience to include..." (b) (6), (b) (7)(C) then proceeded to provide specific examples of what could be added to (b) (6), (b) (7)(C) resume to qualify as "specialized experience" and deem him eligible for the GS-07 level.

(6) On 27 September 2007, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) with an updated copy of (b) (6), (b) (7)(C) resume and asked, "Will this work?"

(7) The resume submitted for (b) (6), (b) (7)(C) includes much of the exact wording suggested by (b) (6), (b) (7)(C).

(8) On 28 September 2007 at 0649, (b) (6), (b) (7)(C) responded to (b) (6), (b) (7)(C) "Yes, this resume shows the specialized experience. Any other candidates?"

(9) In his interview with IOs, (b) (6), (b) (7)(C) denied having anyone review or help edit his resume.

(10) Later on 28 September 2007, at 1116, (b) (6), (b) (7)(C) answered (b) (6), (b) (7)(C), "I know of no other candidates. Please make the job offer. Great working with you on this."

(11) When asked whether he was interviewed prior to his selection, (b) (6), (b) (7)(C) testified, "Uhh, on the phone. I'd say an informal interview with (b) (6), (b) (7)(C) "

(12) According to his SF-50, on 15 October 2007, (b) (6), (b) (7)(C) was appointed to an Excepted Appointment, GS-1640-07, Facilities Operations Specialist, as part of the Federal Career Intern Program with the full performance level of a GS-1640-12.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b) (8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) As the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) application and ultimate appointment, serving as a public official (b) (6), (b) (7)(C) held a position of influence within NAVSUP FLCN.

(3) Email traffic between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) indicates that competition for the GS-1640 position to which (b) (6), (b) (7)(C) was selected was impeded by (b) (6), (b) (7)(C) to achieve the desired result of the selection of his "family friend", (b) (6), (b) (7)(C).

(4) (b) (6), (b) (7)(C) was appointed at a higher grade level, and, subsequently, received a higher salary, than that to which he initially qualified as a result of (b) (6), (b) (7)(C) preferential treatment.

(5) (b) (6), (b) (7)(C) obstruction of competition in favor of (b) (6), (b) (7)(C), as well as the unfair advantages he afforded (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) his qualification for the GS-07 grade-level, provided (b) (6), (b) (7)(C) preferential treatment over other potential candidates resulting in financial gain, in violation of 5 CFR 2635.101(b) (8).

(6) Following his initial hire, (b) (6), (b) (7)(C) advancements, such as his promotion within his FCIP career ladder position from A GS-1640-07 to a GS-1640-09- which was also approved by (b) (6), (b) (7)(C) - was built upon the foundation of an employment that had been acquired by means of preferential treatment from (b) (6), (b) (7)(C)

(7) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

16. Fourteenth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b) (8), "Basic Obligation of Public Service", by providing preferential treatment to (b) (6), (b) (7)(C) in his pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN), during the time period in and around of March 2006 and until (b) (6), (b) (7)(C) retirement in and around 2009. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b) (8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) in which capacity he was directly responsible for all personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(3) (b) (6), (b) (7)(C) initially came onboard at NAVSUP FLCN as a contractor, employed by Alutiiq, around November 2007 and remained so until approximately July 2008.

(4) (b) (6), (b) (7)(C) testified that he knew (b) (6), (b) (7)(C) prior to his hire at NAVSUP FLCN because (b) (6), (b) (7)(C) carpooled with (b) (6), (b) (7)(C) father, (b) (6), (b) (7)(C) and that he would consider (b) (6), (b) (7)(C) a friend of the family.

(5) (b) (6), (b) (7)(C) testified to the long standing relationship between his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C) and my (b) (6), (b) (7)(C), they would probably be - I've got to jog the memory there. That's gone on for, I'd say, it's gone on for probably 15 or so years. At one point, I think it was my (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C), and that would go back to when I was in high school in the late 90's, but I actually am not even sure to tell you the truth. I know it definitely goes back to when my (b) (6), (b) (7)(C) was at NOLSC, but I couldn't even tell you when he started working over there."

(6) By nature of his position, (b) (6), (b) (7)(C) was also a member of the PMAB, before which recruitment or staffing decisions must be presented for approval prior to execution.

(7) In January 2008, a decision was made to convert the position (b) (6), (b) (7)(C) was filling as a contractor to a civilian billet and recruit for a GS-2210, which was a decision that required approval by the PMAB.

(8) NAVSUP FLCN Code 300 submitted a Position Management Tracking Form (PMAB), #027-08, on 18 January 2008 with the following justification: "Recruit/fill IT intern position." PMAB tracking #027-08 was listed on (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action.

(9) According to the Position Fill Request Form for the GS-2210-07 position to which (b) (6), (b) (7)(C) would later be appointed, (b) (6), (b) (7)(C) was designated as the Selecting Official for the YA-2210-01 (GS-2210-07) position to be filled.

(10) In regard to how he learned of the opening of the civilian GS-2210 position at NAVSUP FLCN, (b) (6), (b) (7)(C) testified, "I was basically informed that the position was going to change into a civilian position and I should apply through the USAjobs website. Once I did, I was accepted and I negotiated a start date after that for the civilian position."

(11) (b) (6), (b) (7)(C) testified that he was informed of the open position either by (b) (6), (b) (7)(C), his manager at the time, or (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) manager at the time.

(12) In an email dated 4 April 2008, (b) (6), (b) (7)(C), a Human Resource (HR) Specialist with Human Resource Office (HRO) Norfolk - FLCN Satellite Office, wrote to (b) (6), (b) (7)(C) that she had spoken to OPM and that the link for application was ready to be activated. (b) (6), (b) (7)(C) asked (b) (6), (b) (7)(C) when he would like the link opened and for how long he would like it to remain open. (b) (6), (b) (7)(C) then told (b) (6), (b) (7)(C) that she would send (b) (6), (b) (7)(C) the link for distribution.

(13) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) stating, "Monday is fine. How long do I have to keep it open. And, how expansive do I have to make the distribution?"

(14) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) email, "I would suggest five days. You want to leave it open long enough to give the candidates who receive the flyer enough time to apply. How you make the distribution is up to you. Call me if you have any questions."

(15) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C), "Agree with the 5 days."

(16) In an email dated 7 April 2008, (b) (6), (b) (7)(C) of OPM provided the FCIP flyer, containing the link for application, for Vacancy Identification #AN182235 to (b) (6), (b) (7)(C).

(17) An additional email, dated 7 April 2008, shows that (b) (6), (b) (7)(C) provided that flyer containing the link and Vacancy Identification Number directly to (b) (6), (b) (7)(C).

(18) Since the announcement was unadvertised, only potential applicants to whom that flyer and link were provided would have had knowledge of the announcement or access to the application.

(19) In regard to his application process, (b) (6), (b) (7)(C) stated, "A link was provided for the job. I believe it was provided from (b) (6), (b) (7)(C). It brought you to the job posting that they had posted."

(20) (b) (6), (b) (7)(C) testified to the ease of the application process for his civilian, GS-2210 position, "It was pretty straight forward. Once they sent out the link, I got on and filled out all the necessary information and submitted the application."

(21) Certificate of Eligibles #AN-08-MFL-02732S0, a product of the flyer for Vacancy Identification #AN182235, which was not advertised publicly, was issued on 24 April 2008 and produced just one candidate - (b) (6), (b) (7)(C)

(22) (b) (6), (b) (7)(C) stated as to whether there was an interview conducted for his civilian position, "I don't think there was because I was basically doing the same position before as a contractor, so I don't know if I was required to do an interview, but I can't remember if I did one or not."

(23) According to Certificate of Eligibles #AN-08-MFL-02732S0, signed by (b) (6), (b) (7)(C) on 12 May 2008, (b) (6), (b) (7)(C) personally selected (b) (6), (b) (7)(C) for appointment to the GS-2210-07 position.

(24) As to what kind of correspondence was made during his application and hiring process, (b) (6), (b) (7)(C) testified, "Once I submitted the application, all the notifications I got was from USAjobs. As far as the hiring, I don't know that there was much correspondence back and forth. If there had been, it would have been with (b) (6), (b) (7)(C)."

(25) According to his SF-50, on 7 July 2008, (b) (6), (b) (7)(C) was appointed to an Excepted Appointment, YA-2210-01 (GS-2210-07), IT Specialist (Policy & Planning), with the full performance level of a YA-2210-02 (GS-2210-12).

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b) (8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) application and ultimate appointment to his civilian position, serving as a public official and held a position of influence within NAVSUP FLCN.

(3) The certificate from which (b) (6), (b) (7)(C) was selected was the product of a job announcement that was not advertised by the Office of Personnel Management (OPM) and could only have been accessed through the link provided by (b) (6), (b) (7)(C) of OPM to (b) (6), (b) (7)(C) at HRO Norfolk - FLCN Satellite Office, who in turn provided it to (b) (6), (b) (7)(C).

(4) The fact that (b) (6), (b) (7)(C) was the only candidate produced by Certificate of Eligibles, AN-08-MFL-02732S0, indicates the (b) (6), (b) (7)(C) did not distribute the flyer containing the link for application, of which he was known to be in possession, to any potential candidates other than (b) (6), (b) (7)(C), therefore, defining the scope in favor of (b) (6), (b) (7)(C) and targeting him for selection.

(5) Email traffic between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) indicates that competition for the GS-2210 position to which (b) (6), (b) (7)(C) was selected was impeded by (b) (6), (b) (7)(C) to achieve the desired result of the selection of (b) (6), (b) (7)(C) to whom's family (b) (6), (b) (7)(C) had a long standing relationship. (b) (7)

(6) (b) (6), (b) (7)(C) obstruction of competition in favor of (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C) preferential treatment over other potential candidates, in violation of 5 CFR 2635.101(b) (8).

(7) Following his initial hire, (b) (6), (b) (7)(C) advancements, such as his promotions within his career ladder position were built upon the foundation of an employment that had been acquired by means of preferential treatment from (b) (6), (b) (7)(C).

(8) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

17. Fifteenth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2302(b) (6) by granting preference or advantage not authorized by law, rule, or regulation to (b) (6), (b) (7)(C), an applicant for employment with the NAVSUP Fleet Logistics Center Norfolk (FLCN), for the purpose of improving his prospects for employment during the period of time beginning in or around July 2007 until his retirement in 2009. **Substantiated.**

a. Facts

(1) 5 USC 2302(b) (6) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for

employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C), in which capacity he had the authority to take, direct others to take, recommend, and approve personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(3) In response to how he learned of the open GS-1640-05/07 position with NAVSUP FLCN, (b) (6), (b) (7)(C) testified, "Through a friend of the family - (b) (6), (b) (7)(C). They put it out on USAjobs, but he knew that the previous facilities guy was retiring so I applied."

(4) According to the Position Fill Request Form for the position to which (b) (6), (b) (7)(C) was initially appointed, (b) (6), (b) (7)(C) was the Selecting Official for (b) (6), (b) (7)(C) hire.

(5) In an email dated 25 September 2007, (b) (6), (b) (7)(C), a Human Resource (HR) Specialist with Human Resource Office (HRO) Norfolk - FLCN Satellite Office, wrote to (b) (6), (b) (7)(C) that she had reviewed (b) (6), (b) (7)(C) resume and then proceeded to advise (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) qualifications for the GS-05 versus GS-07 levels of the open position: "He indicates he has a bachelor degree from ODU. The degree would qualify him for the GS-5 level. If he has a GPA of 3.0 or higher, he could qualify at the GS-07 level. If he does not have the 3.0 GPA, we could use one year of specialized experience to include..." (b) (6), (b) (7)(C) then proceeded to provide specific examples of what could be added to (b) (6), (b) (7)(C) resume to qualify as "specialized experience" and deem him eligible for the GS-07 level.

(6) On 27 September 2007, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) with an updated copy of (b) (6), (b) (7)(C) resume and asked, "Will this work?"

(7) (b) (6), (b) (7)(C) resume, on file with the HRO Norfolk - FLCN Satellite Office, includes much of the exact wording suggested by (b) (6), (b) (7)(C).

(8) In his interview with IOs, (b) (6), (b) (7)(C) denied having anyone review or help edit his resume.

(9) On 28 September 2007 at 0649, (b) (6), (b) (7)(C) responded to (b) (6), (b) (7)(C) "Yes, this resume shows the specialized experience. Any other candidates?"

(10) Later on 28 September 2007, at 1116, (b) (6), (b) (7)(C) answered (b) (6), (b) (7)(C), "I know of no other candidates. Please make the job offer. Great working with you on this."

(11) When asked whether he was interviewed prior to his selection, (b) (6), (b) (7)(C) testified, "Uhh, on the phone. I'd say an informal interview with (b) (6), (b) (7)(C)."

(12) According to his SF-50, on 15 October 2007, (b) (6), (b) (7)(C) was appointed to an Excepted Appointment, GS-1640-07, Facilities Operations Specialist, as part of the Federal Career Intern Program with the full performance level of a GS-1640-12.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(6), any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) had, at the time of (b) (6), (b) (7)(C) application and ultimate appointment, the authority to take, direct others to take, recommend, and approve personnel actions across the NAVSUP FLCN organization.

(3) Email traffic between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) indicates that competition for the GS-1640 position to which (b) (6), (b) (7)(C) was selected was impeded by (b) (6), (b) (7)(C) when he defined the scope to include only his "family friend", (b) (6), (b) (7)(C), for competition and guaranteed selection.

(4) (b) (6), (b) (7)(C) was appointed at a higher grade level, and, subsequently, received a higher salary, than that to which he initially qualified as a result of special preference and advantage granted to him by (b) (6), (b) (7)(C) in the strategic editing of (b) (6), (b) (7)(C) resume.

(5) (b) (6), (b) (7)(C) obstruction of competition in favor of (b) (6), (b) (7)(C), as well as the unfair advantages he afforded (b) (6), (b) (7)(C) in his qualification for the GS-07 grade-level, provided (b) (6), (b) (7)(C) preference to improve and guarantee his prospects for employment with NAVSUP FLCN, in violation of 5 USC 2302(b)(6).

(6) Following his initial hire, (b) (6), (b) (7)(C) advancements, such as his promotion within his FCIP career ladder position - which was also personally approved by (b) (6), (b) (7)(C) - were built upon the foundation of an employment that had been acquired by means of preference and advantages granted to (b) (6), (b) (7)(C) by (b) (6), (b) (7)(C).

(7) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

18. Sixteenth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2302(b)(6) by granting preference or advantage not authorized by law, rule, or regulation to (b) (6), (b) (7)(C), an applicant for employment with the NAVSUP Fleet Logistics Center Norfolk (FLCN), for the purpose of improving his prospects for employment during the period of time beginning in and around March 2006 and until (b) (6), (b) (7)(C) retirement in and around 2009.
Substantiated.

a. Facts

(1) 5 USC 2302(b)(6) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for

any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C), in which capacity he had the authority to take, direct others to take, recommend, and approve personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(3) (b) (6), (b) (7)(C) initially came onboard at NAVSUP FLCN as a contractor, employed by Atutiiq, around November 2007 and remained so until approximately July 2008.

(4) (b) (6), (b) (7)(C) testified that he knew (b) (6), (b) (7)(C) prior to his hire at NAVSUP FLCN because (b) (6), (b) (7)(C) carpooled with (b) (6), (b) (7)(C) father, (b) (6), (b) (7)(C) and that he would consider (b) (6), (b) (7)(C) a friend of the family.

(5) (b) (6), (b) (7)(C) testified to the long standing relationship between his (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C): (b) (6), (b) (7)(C) and my (b) (6), (b) (7)(C), they would probably be - I've got to jog the memory there. That's gone on for, I'd say, it's gone on for probably 15 or so years. At one point, I think it was my (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C), and that would go back to when I was in high school in the late 90's, but I actually am not even sure to tell you the truth. I know it definitely goes back to when my (b) (6), (b) (7)(C) was at NOLSC, but I couldn't even tell you when he started working over there."

(6) By nature of his position, (b) (6), (b) (7)(C) was also a member of the PMAB, before which any recruitment or staffing decisions must be presented for approval prior to execution.

(7) In January 2008, a decision was made to convert the position (b) (6), (b) (7)(C) was filling as a contractor to a civilian billet and recruit for a GS-2210, which was a decision that required approval by the PMAB, upon which (b) (6), (b) (7)(C) sat.

(8) NAVSUP FLCN Code 300 submitted a Position Management Tracking Form (PMAB), #027-08, on 18 January 2008 with the following justification: "Recruit/fill IT intern position." PMAB tracking #027-08 was listed on (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action.

(9) According to the Position Fill Request Form for the GS-2210-07 position to which (b) (6), (b) (7)(C) would later be appointed, (b) (6), (b) (7)(C) was designated as the Selecting Official for the YA-2210-01 (GS-2210-07) position to be filled.

(10) In regard to how he learned of the opening of the civilian GS-2210 position at NAVSUP FLCN, (b) (6), (b) (7)(C) testified, "I was basically informed that the position was going to change into a civilian position and I should apply through the USAjobs website. Once I did, I was accepted and I negotiated a start date after that for the civilian position."

(11) (b) (6), (b) (7)(C) testified that he was informed of the open position either by (b) (6), (b) (7)(C), his manager at the time, or (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) manager at the time.

(12) In an email dated 4 April 2008, (b) (6), (b) (7)(C), a Human Resource (HR) Specialist with Human Resource Office (HRO) Norfolk - FLCN Satellite Office, wrote to (b) (6), (b) (7)(C) that she had spoken to OPM and that the link for

application was ready to be activated. (b) (6), (b) (7)(C) asked (b) (6), (b) (7)(C) when he would like the link opened and for how long he would like it to remain open. (b) (6), (b) (7)(C) then told (b) (6), (b) (7)(C) that she would send (b) (6), (b) (7)(C) the link for distribution.

(13) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) stating, "Monday is fine. How long do I have to keep it open. And, how expansive do I have to make the distribution?"

(14) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) email, "I would suggest five days. You want to leave it open long enough to give the candidates who receive the flyer enough time to apply. How you make the distribution is up to you. Call me if you have any questions."

(15) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C), "Agree with the 5 days."

(16) In an email dated 7 April 2008, (b) (6), (b) (7)(C) of OPM provided the FCIP flyer, containing the link for application, for Vacancy Identification #AN182235 to (b) (6), (b) (7)(C).

(17) An additional email, dated 7 April 2008, shows that (b) (6), (b) (7)(C) provided that flyer containing the link and Vacancy Identification Number directly to (b) (6), (b) (7)(C).

(18) Since the announcement was not advertised, only potential applicants to whom that flyer and link were provided would have had knowledge of the announcement or access to the application.

(19) In regard to his application process, (b) (6), (b) (7)(C) stated, "A link was provided for the job. I believe it was provided from (b) (6), (b) (7)(C). It brought you to the job posting that they had posted."

(20) (b) (6), (b) (7)(C) testified to the ease of the application process for his civilian, GS-2210 position, "It was pretty straight forward. Once they sent out the link, I got on and filled out all the necessary information and submitted the application."

(21) Certificate of Eligibles #AN-08-MFL-02732S0, a product of the flyer for Vacancy Identification #AN182235, which was not advertised publicly, was issued on 24 April 2008 and produced just one candidate - (b) (6), (b) (7)(C).

(22) As to whether there was an interview conducted for his civilian position, (b) (6), (b) (7)(C) stated, "I don't think there was because I was basically doing the same position before as a contractor, so I don't know if I was required to do an interview, but I can't remember if I did one or not."

(23) According to Certificate of Eligibles #AN-08-MFL-02732S0, signed by (b) (6), (b) (7)(C) on 12 May 2008, (b) (6), (b) (7)(C) personally selected (b) (6), (b) (7)(C) for appointment to the GS-2210-07 position.

(24) According to his SF-50, on 7 July 2008, (b) (6), (b) (7)(C) was appointed to an Excepted Appointment, YA-2210-01 (GS-2210-07), IT Specialist (Policy & Planning), with the full performance level of a YA-2210-02 (GS-2210-12).

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(6), any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) had, at the time of (b) (6), (b) (7)(C) application and ultimate appointment, the authority to take, direct others to take, recommend, and approve personnel actions across the NAVSUP FLCN organization.

(3) The certificate from which (b) (6), (b) (7)(C) was selected was the product of a job announcement that was not advertised by the Office of Personnel Management (OPM) and could only have been accessed through the link provided by (b) (6), (b) (7)(C) of OPM to (b) (6), (b) (7)(C) at HRO Norfolk - FLCN Satellite Office, who in turn provided it to (b) (6), (b) (7)(C).

(4) The fact that (b) (6), (b) (7)(C) was the only candidate produced by Certificate of Eligibles, #AN, indicates the (b) (6), (b) (7)(C) did not distribute the flyer containing the link for application to any other potential candidates, but instead selectively targeted (b) (6), (b) (7)(C) for selection.

(5) Email traffic between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) indicates that competition for the GS-2210 position to which (b) (6), (b) (7)(C) was selected was impeded by (b) (6), (b) (7)(C) to achieve the desired result of the selection of (b) (6), (b) (7)(C) to whom's family (b) (6), (b) (7)(C) had a long standing relationship. (b) (7)

(6) (b) (6), (b) (7)(C) definition of scope in favor of (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C) preference to improve and guarantee his prospects for employment with NAVSUP FLCN, in violation of 5 USC 2302(b)(6).

(7) Following his initial hire, (b) (6), (b) (7)(C) advancements, such as his promotions within his FCIP career ladder position were built upon the foundation of an employment that had been acquired by means of preference and advantages granted to (b) (6), (b) (7)(C) by (b) (6), (b) (7)(C).

(8) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

19. Seventeenth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2303(c) by failing to prevent and actively participating in prohibited personnel practices and failing to ensure NAVSUP Fleet Logistics Center Norfolk's (FLCN) compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management during the time period in and around March 2006 until (b) (6), (b) (7)(C) retirement in and around 2009. **Substantiated.**

a. Facts

(1) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C), from in and around March 2006 until retirement in and around 2009, in which capacity he was delegated authority for personnel management.

(2) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. The PMAB membership consists of the (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) and the Human Resource Office Norfolk.

(3) As the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was an approving member of the PMAB.

(4) During (b) (6), (b) (7)(C) tenure as (b) (6), (b) (7)(C) the following Prohibited Personnel Practices and other civil service laws, rules, and regulations were found to have been violated:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

(6) During the course of this investigation, the following civil service laws, rules, and regulations were found to have been violated by (b) (6), (b) (7)(C) in particular:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(c), any individual to whom the head of an agency delegates authority for personnel management shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management.

(2) As the (b) (6), (b) (7)(C) NAVSUP FLCN, (b) (6), (b) (7)(C) was delegated authority for personnel management and, therefore, responsible for the prevention of prohibited personnel practices and for the compliance with and enforcement of applicable civil service laws, rules, and regulations.

(3) As a key member of the PMAB - the ultimate approving authority for all personnel actions within NAVSUP FLCN - (b) (6), (b) (7)(C) had direct influence over and intimate involvement with the personnel matters of the organization. In such a capacity, (b) (6), (b) (7)(C) would have been aware of the hiring and personnel practices taking place within the organization.

(4) On various occasions throughout his tenure as (b) (6), (b) (7)(C), NAVSUP FLCN, (b) (6), (b) (7)(C) not only failed to prevent prohibited personnel practices and violations of applicable civil service laws, rules, and regulations, but was personally responsible for the violation of at least seven of those laws, rules, and regulations, in violation of 5 USC 2302(c).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

20. Eighteenth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2301(b)(1), "Merit System Principles", through his efforts to target (b) (6), (b) (7)(C) for employment with NAVSUP Fleet Logistics Center Norfolk (FLCN) through the utilization of selective recruitment practices that prevented fair and open competition and denied equal opportunity to other potential candidates, during the period of time beginning in and around March 2006 until his retirement in and around 2009. **Substantiated.**

a. Facts

(1) 5 USC 2301(b)(1) states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C), in which capacity he had the authority to take, direct others to take, recommend, and approve personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(3) In response to how he learned of the open GS-1640-05/07 position with NAVSUP FLCN, (b) (6), (b) (7)(C) testified, "Through a friend of the family - (b) (6), (b) (7)(C). They put it out on USAjobs, but he knew that the previous facilities guy was retiring so I applied."

(4) According to the Position Fill Request Form for the position to which (b) (6), (b) (7)(C) was initially appointed, (b) (6), (b) (7)(C) was the Selecting Official for (b) (6), (b) (7)(C) hire.

(5) In an email dated 25 September 2007, (b) (6), (b) (7)(C), a Human Resource (HR) Specialist with Human Resource Office (HRO) Norfolk - FLCN Satellite Office, wrote to (b) (6), (b) (7)(C) that she had reviewed (b) (6), (b) (7)(C)

resume and then proceeded to advise (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) qualifications for the GS-05 versus GS-07 levels of the open position: "He indicates he has a bachelor degree from ODU. The degree would qualify him for the GS-5 level. If he has a GPA of 3.0 or higher, he could qualify at the GS-07 level. If he does not have the 3.0 GPA, we could use one year of specialized experience to include..." (b) (6), (b) (7)(C) then proceeded to provide specific examples of what could be added to (b) (6), (b) (7)(C) resume to qualify as "specialized experience" and deem him eligible for the GS-07 level.

(6) On 27 September 2007, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) with an updated copy of (b) (6), (b) (7)(C) resume and asked, "Will this work?"

(7) The resume submitted for (b) (6), (b) (7)(C) includes much of the exact wording suggested by (b) (6), (b) (7)(C)

(8) On 28 September 2007 at 0649, (b) (6), (b) (7)(C) responded to (b) (6), (b) (7)(C) "Yes, this resume shows the specialized experience. Any other candidates?"

(9) In his interview with IOs, (b) (6), (b) (7)(C) denied having anyone review or help edit his resume.

(10) Later on 28 September 2007, at 1116, (b) (6), (b) (7)(C) answered (b) (6), (b) (7)(C) "I know of no other candidates. Please make the job offer. Great working with you on this."

(11) When asked whether he was interviewed prior to his selection, (b) (6), (b) (7)(C) testified, "Uhh, on the phone. I'd say an informal interview with (b) (6), (b) (7)(C) ."

(12) According to his SF-50, on 15 October 2007, (b) (6), (b) (7)(C) was appointed to an Excepted Appointment, GS-1640-07, Facilities Operations Specialist, as part of the Federal Career Intern Program with the full performance level of a GS-1640-12.

(13) On 26 October 2008, as a part of his career-ladder progression, (b) (6), (b) (7)(C) was non-competitively promoted from a GS-1640-07 to a GS-1640-09 - at which point, documents with which his name was associated were submitted for the PMAB's approval of his promotion.

(14) NAVSUP FLCN requesting organization Code 300A500 submitted a Position Management Tracking Form (PMAB)# 413-08 on 17 September 2008, Justification: "Employee has met the requirements to promote to the GS-09 Performance Level." Name(Current incumbent) "(b) (6), (b) (7)(C)", on the ED decision line signed approved by (b) (6), (b) (7)(C) on 22 September 2008.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2301(b)(1), recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) As the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) had, at the time of (b) (6), (b) (7)(C) application and ultimate appointment, the authority to take, direct (b) (6), (b) (7)(C) others to take, recommend, and approve personnel actions across the NAVSUP FLCN organization.

(3) Email traffic between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) indicates that, as a result of (b) (6), (b) (7)(C) obstruction of competition and definition of the scope to include only his "family friend", (b) (6), (b) (7)(C) for competition and ultimate selection, recruitment for the GS-1640 position to which (b) (6), (b) (7)(C) was selected was not from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society.

(4) As a result of (b) (6), (b) (7)(C) intervention and assistance, (b) (6), (b) (7)(C) qualified for and was appointed at a higher grade level and (and higher salary) than he would have received based on the application materials he personally submitted.

(5) Following his initial hire, (b) (6), (b) (7)(C) advancement, such as his promotion within his FCIP career ladder position - which was also approved by (b) (6), (b) (7)(C) - were built upon the foundation of an employment that had been acquired by means of preference and advantages granted to (b) (6), (b) (7)(C) by (b) (6), (b) (7)(C)

(6) As a result of (b) (6), (b) (7)(C) limitation of competition in favor of (b) (6), (b) (7)(C) as well as the special assistance he afforded (b) (6), (b) (7)(C) to qualify (b) (6), (b) (7)(C) at the GS-07 grade level, (b) (6), (b) (7)(C) selection was not determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition to assure that all received equal opportunity, in violation of 5 USC 2301(b)(1).

(7) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

21. Nineteenth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2301(b)(1), "Merit System Principles", through his efforts to target (b) (6), (b) (7)(C) for employment with NAVSUP Fleet Logistics Center Norfolk (FLCN) through the utilization of selective recruitment practices that prevented fair and open competition and denied equal opportunity to other potential candidates, during the period of time beginning in and around September 2007 until his retirement in and around 2009. **Substantiated.**

a. Facts

(1) 5 USC 2301(b)(1) states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) in which capacity he had the authority to take, direct others to take, recommend, and approve personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(3) (b) (6), (b) (7)(C) initially came onboard at NAVSUP FLCN as a contractor, employed by Alutiiq, around November 2007 and remained so until approximately July 2008.

(4) (b) (6), (b) (7)(C) testified that he knew (b) (6), (b) (7)(C) prior to his hire at NAVSUP FLCN because (b) (6), (b) (7)(C) carpooled with (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and that he would consider (b) (6), (b) (7)(C) a friend of the family.

(5) (b) (6), (b) (7)(C) testified to the long standing relationship between his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and my (b) (6), (b) (7)(C), they would probably be - I've got to jog the memory there. That's gone on for, I'd say, it's gone on for probably 15 or so years. At one point, I think it was my (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C), and that would go back to when I was in high school in the late 90's, but I actually am not even sure to tell you the truth. I know it definitely goes back to when my (b) (6), (b) (7)(C) was at NOLSC, but I couldn't even tell you when he started working over there."

(6) By nature of his position, (b) (6), (b) (7)(C) was also a member of the PMAB, before which recruitment and staffing decisions must be presented for approval prior to execution.

(7) In January 2008, a decision was made to convert the position (b) (6), (b) (7)(C) was filling as a contractor to a civilian billet and recruit for a (b) (6), (b) (7)(C) GS-2210, which was a decision that required approval by the PMAB, upon which (b) (6), (b) (7)(C) sat.

(8) NAVSUP FLCN Code 300 submitted a Position Management Tracking Form (PMAB), #027-08, on 18 January 2008 with the following justification: "Recruit/fill IT intern position." PMAB tracking #027-08 was listed on (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action.

(9) According to the Position Fill Request Form for the GS-2210-07 position to which (b) (6), (b) (7)(C) would later be appointed, (b) (6), (b) (7)(C) was designated as the Selecting Official.

(10) In regard to how he learned of the opening of the civilian GS-2210 position at NAVSUP FLCN, (b) (6), (b) (7)(C) testified, "I was basically informed that the position was going to change into a civilian position and I should apply through the USAjobs website. Once I did, I was accepted and I negotiated a start date after that for the civilian position."

(11) (b) (6), (b) (7)(C) testified that he was informed of the open position either by (b) (6), (b) (7)(C), his manager at the time, or (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) manager at the time.

(12) In an email dated 4 April 2008, (b) (6), (b) (7)(C), a Human Resource (HR) Specialist with Human Resource Office (HRO) Norfolk - FLCN Satellite Office, wrote to (b) (6), (b) (7)(C) that she had spoken to OPM and that the link for application was ready to be activated. (b) (6), (b) (7)(C) asked (b) (6), (b) (7)(C) when he would like the link opened and for how long he would like it to remain open. (b) (6), (b) (7)(C) then told (b) (6), (b) (7)(C) that she would send (b) (6), (b) (7)(C) the link for distribution.

(13) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) stating, "Monday is fine. How long do I have to keep it open. And, how expansive do I have to make the distribution?"

(14) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) email, "I would suggest five days. You want to leave it open long enough to give the candidates who receive the flyer enough time to apply. How you make the distribution is up to you. Call me if you have any questions."

(15) On 4 April 2008, (b) (6), (b) (7)(C) replied to (b) (6), (b) (7)(C) "Agree with the 5 days."

(16) In an email dated 7 April 2008, (b) (6), (b) (7)(C) of OPM provided the FCIP flyer, containing the link for application, for Vacancy Identification #AN182235 to (b) (6), (b) (7)(C)

(17) An additional email, dated 7 April 2008, shows that (b) (6), (b) (7)(C) provided that flyer containing the link and Vacancy Identification Number directly to (b) (6), (b) (7)(C)

(18) Since the announcement was not advertised, only potential applicants to whom that flyer and link were provided would have had knowledge of the announcement or access to the application.

(19) In regard to his application process, (b) (6), (b) (7)(C) stated, "A link was provided for the job. I believe it was provided from (b) (6), (b) (7)(C). It brought you to the job posting that they had posted."

(20) (b) (6), (b) (7)(C) testified to the ease of the application process for his civilian, GS-2210 position, "It was pretty straight forward. Once they sent out the link, I got on and filled out all the necessary information and submitted the application.

(21) Certificate of Eligibles #AN-08-MFL-02732S0, a product of the flyer for Vacancy Identification #AN182235, which was not advertised publicly, was issued on 24 April 2008 and produced just one candidate - (b) (6), (b) (7)(C)

(22) (b) (6), (b) (7)(C) stated that he could not remember for sure whether he was interviewed for his civilian position or not and explained, "I don't think there was because I was basically doing the same position before as a contractor, so I don't know if I was required to do an interview, but I can't remember if I did one or not."

(23) According to Certificate of Eligibles #AN-08-MFL-02732S0, signed by (b) (6), (b) (7)(C) on 12 May 2008, (b) (6), (b) (7)(C) personally selected (b) (6), (b) (7)(C) for appointment to the GS-2210-07 position.

(24) According to his SF-50, on 7 July 2008, (b) (6), (b) (7)(C) was appointed to an Excepted Appointment, YA-2210-01 (GS-2210-07), IT Specialist (Policy & Planning), with the full performance level of a YA-2210-02 (GS-2210-12).

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2301(b)(1), recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) As the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) had, at the time of (b) (6), (b) (7)(C) application and ultimate appointment, the authority to take, direct (b) (6), (b) (7)(C) others to take, recommend, and approve personnel actions across the NAVSUP FLCN organization.

(3) The certificate from which (b) (6), (b) (7)(C) was selected was the product of a job announcement that was not advertised by the Office of Personnel Management (OPM) and could only have been accessed through the link provided by (b) (6), (b) (7)(C) of OPM to (b) (6), (b) (7)(C) at HRO Norfolk - FLCN Satellite Office, who in turn provided it to (b) (6), (b) (7)(C).

(4) The fact that (b) (6), (b) (7)(C) was the only candidate produced by Certificate of Eligibles, AN-08-MFL-02732S0, indicates the (b) (6), (b) (7)(C) did not distribute the flyer containing the link for application to any other potential candidates, but instead selectively targeted (b) (6), (b) (7)(C) for guaranteed selection.

(5) Email traffic between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) indicates that, as a result of (b) (6), (b) (7)(C) obstruction of competition and definition of the scope to achieve the desired result of the selection of (b) (6), (b) (7)(C) - to whom's family (b) (6), (b) (7)(C) had a long standing relationship - recruitment for the GS-2210 position to which (b) (6), (b) (7)(C) was selected was not from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society.

(6) Following his initial hire, (b) (6), (b) (7)(C) advancements, such as his promotions within his FCIP career ladder position were built upon the foundation of an employment that had been acquired by means of preference and advantages granted to (b) (6), (b) (7)(C) by (b) (6), (b) (7)(C).

(7) As a result of (b) (6), (b) (7)(C) obstruction of competition in favor of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) selection and subsequent advancements were not determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition to assure that all receive equal opportunity, in violation of 5 USC 2301(b)(1).

(8) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

22. Twentieth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2301(b)(1), "Merit System Principles", through his efforts to target his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) for employment with NAVSUP Fleet Logistics Center Norfolk (FLCN) through the utilization of selective recruitment practices that prevented fair and open competition and denied equal opportunity to other potential candidates, during the period of time beginning in and around March 2006 until his retirement in and around 2009. **Substantiated.**

a. Facts

(1) 5 USC 2301(b)(1) states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) According to the testimonies of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) , as well as (b) (6), (b) (7)(C) OF-306, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(3) At the time of (b) (6), (b) (7)(C) hire, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) in which capacity he had the authority to take, direct others to take, recommend, and approve personnel actions throughout NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(4) Despite statements made by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) IOs found little evidence to validate their claims that efforts were made on their parts to recruit for FCIP interns at local colleges and universities.

(5) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for their program on their own.

(6) In regard to how he learned of the open position with NAVSUP FLCN, (b) (6), (b) (7)(C) stated, "I was informed of the opening by my (b) (6), (b) (7)(C) , who was in Code 300 at the time, in addition to my (b) (6), (b) (7)(C) who was an intern that had recently been hired about a year or year and a half before I got here."

(7) The certificate from which (b) (6), (b) (7)(C) was selected was the product of a job announcement that was not advertised by the Office of Personnel Management (OPM) and could only have been accessed through the link provided by OPM.

(8) In his interview with the IOs, (b) (6), (b) (7)(C) stated, "I was emailed a link to, I think, what now is USAjobs, I think to the information that was required to be considered for the position."

(9) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate management official within NAVSUP FLCN.

(10) As to how he personally received the link, (b) (6), (b) (7)(C) testified, "I believe my (b) (6), (b) (7)(C) was the one that emailed me the information and then I spoke with my (b) (6), (b) (7)(C) about the job, daily duties, etc., before I submitted my resume for consideration."

(11) Certificate of Eligibles #AN-07-DPG-01434S0, dated 17 January 2007, for a GS-1102-07, was advertised by OPM and produced 65 candidates, of which 12 were veterans.

(12) Approximately three months later, on 16 March 2007, the Certificate of Eligibles from which (b) (6), (b) (7)(C) was ultimately selected, #AN-132793, and which NAVSUP FLCN chose not to advertise, produced just six candidates, of which only one was a veteran. Additionally, four of the six candidates had familial ties to the NAVSUP FLCN organization or the NAVSUP community, with an additional candidate whom had a known association with an employee in the servicing HRO.

(13) (b) (6), (b) (7)(C) initially testified that he moved to Virginia Beach, Virginia, from (b) (6), (b) (7)(C) around the end of February 2007

specifically for the position at NAVSUP FLCN; although, over the course of his interview with the IOs, (b) (6), (b) (7)(C) made numerous conflicting statements.

(14) (b) (6), (b) (7)(C) testified that, at the time of his move to Virginia Beach, he moved in with his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C)

(15) (b) (6), (b) (7)(C) testified to the IOs, "I applied for the position, I'd say in, I believe, in November. I was sent an email sometime in January-ish saying I was hired. I moved here then my paperwork was lost somewhere in HR and that delayed my hire."

(16) (b) (6), (b) (7)(C) denied being given any guarantee of a position at NAVSUP FLCN and stated, in regards to his changing account of events, "Thinking back 6 years is really hard. I was never given any sort of indication that I was hired."

(17) Later in the interview, (b) (6), (b) (7)(C) contradicted his earlier statements and cited the reason for his move to the area was not for the job at NAVSUP FLCN, but rather to live with (b) (6), (b) (7)(C). Answering the question of why he would make such a move if he didn't have a guaranteed job, (b) (6), (b) (7)(C) testified, "Well, my (b) (6), (b) (7)(C) lives here."

(18) To counter his varying statements, (b) (6), (b) (7)(C) stated, "I was having issues in (b) (6), (b) (7)(C) - waiting tables, (b) (6), (b) (7)(C). I moved here, I don't remember when HRO notified me. Again, I don't remember (b) (6), (b) (7)(C) years ago. I don't know when HRO sent me an email. I don't know when I was hired. I don't remember that information."

(19) Ultimately, after being confronted about the variations in his account of events, (b) (6), (b) (7)(C) once again contradicted his earlier statements and testified, "I didn't move here in January/late January/February for the job because I didn't have the job."

(20) On 16 April 2007, (b) (6), (b) (7)(C) was appointed to an excepted appointment, GS-1102-05, under the Federal Career Intern Program (FCIP) hiring authority.

(21) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed.

(22) At the time of (b) (6), (b) (7)(C) hire, the PMAB membership consisted of the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) (b) (6) and the (b) (6), (b) (7)(C)

(23) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) - whom is responsible for preparing documents for the PMAB - some personnel actions may have names associated with them at the time of their submission to the PMAB for approval. Such actions include by-name requests, reassignments, and career-ladder promotions.

(24) On 16 April 2007, (b) (6), (b) (7)(C) was appointed to an excepted appointment, GS-1102-05, under the Federal Career Intern Program (FCIP) hiring authority, with the full performance level of a GS-1102-12.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2301(b)(1), recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) There is a clearly established familial tie between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as evidenced by witness statements, official documents, and (b) (6), (b) (7)(C) living arrangements with (b) (6), (b) (7)(C) upon his relocation to the Virginia Beach, VA, area.

(3) (b) (6), (b) (7)(C) at the time of (b) (6), (b) (7)(C) hire, held the position of (b) (6), (b) (7)(C) in which capacity he was directly responsible for all personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(4) The certificate from which (b) (6), (b) (7)(C) was selected was the product of a job announcement that was not advertised by the Office of Personnel Management (OPM) and could only have been accessed through the link, which (b) (6), (b) (7)(C) testified was passed to him by (b) (6), (b) (7)(C) (b) (7)

(5) The exceedingly low yield of six candidates produced by AN-132793 of 16 March 2007 in comparison with the 65 candidates produced by AN-07-DPG-01434S0 of 17 January 2007 - all within a three month time span - shows that there was a healthy market for GS-1102-07 eligible candidates at the time and, therefore, indicates a very limited distribution of the unadvertised 16 March 2007 announcement, from which (b) (6), (b) (7)(C) was selected for hire

(6) Such a low number of applicants on AN-132793 suggests limited distribution to targeted individuals and indicates that (b) (6), (b) (7)(C) did not distribute the flyer containing the link for application to other potential candidates, but instead selectively targeted (b) (6), (b) (7)(C) for selection.

(7) Further validating a selective distribution of the link was the fact that five of the six candidates on the 16 March Certificate of Eligibles had either familial ties to the NAVSUP community or known associations with individuals in the NAVSUP FLCN building.

(8) That selective distribution of the link indicates that recruitment for the GS-1102 position to which (b) (6), (b) (7)(C) was selected was not from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society.

(9) As a result of (b) (6), (b) (7)(C) participation in the selective distribution of the link for application to target his (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) selection and subsequent advancements were not determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition to assure that all receive equal opportunity, in violation of 5 USC 2301(b)(1).

(10) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

23. Twenty-first Allegation: That (b) (6), (b) (7)(C) violated the statutory prohibitions against nepotism, 5 USC. §2302(b)(7) and 5 USC §3110(b), by appointing and employing, her niece, (b) (6), (b) (7)(C), in or to a civilian position in the NAVSUP Fleet Logistics Center Norfolk (FLCN), the agency in which (b) (6), (b) (7)(C) is serving as a public official and exercises jurisdiction or control as such an official, during the time period beginning in April 2011 until present. **Substantiated.**

a. Facts

(1) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is the niece of (b) (6), (b) (7)(C)

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) since June 2008, in which capacity she is directly responsible for personnel actions within NAVSUP FLCN and has direct knowledge of the summer hire requirements and influence over selections.

(3) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed.

(4) The PMAB membership consists of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the Code 300 (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(5) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) (who is responsible for preparing documents for the PMAB) some personnel actions may have names associated with them at the time of their submission to the PMAB for approval. Such actions include by-name requests, reassignments, and career-ladder promotions.

(6) NAVSUP FLCN processes all summer hires as by-name requests.

(7) In keeping with such practices and according to the Position Management Tracking Form #150-11 for (b) (6), (b) (7)(C) hire, her initial summer hire as a GS-0344-03, effective 20 June 2011, was processed as a by-name request, at which point, her name was present on documents submitted to the PMAB for approval.

(8) According to (b) (6), (b) (7)(C) testimony, (b) (6), (b) (7)(C) learned of NAVSUP FLCN's requirement for a summer hire through (b) (6), (b) (7)(C)

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(7) any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative of such employee if such position is in the agency in which such employee is serving as a public official or over which such employee exercises jurisdiction or control as such an official.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(3) As the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment, and continues to serve as a public official, as defined in 5 USC 3110(a)(2), and is in a position to exercise jurisdiction or control as such an official.

(4) As a key member of the PMAB, (b) (6), (b) (7)(C) approved the appointment and employment of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) in and to a civilian position, in violation of Title 5, United States Code, Section 2302(b)(7).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

24. Twenty-second Allegation: That (b) (6), (b) (7)(C) as a senior civilian within the NAVSUP Fleet Logistics Center Norfolk, has had intimate involvement in the hire of at least forty individuals with familial ties to NAVSUP FLCN and/or the NAVSUP community and has subsequently created the appearance of impropriety, in violation of Title 5, Code of Federal Regulations, Section 2635.101(b)(14), "Basic Obligation of Public Service". **Substantiated.**

a. Facts

(1) According to (b) (6), (b) (7)(C) she was instrumental in the development of the processes for employing FCIP at NAVSUP FLCN.

(2) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for its program on its own.

(3) The majority of FCIP job announcements were not advertised by the Office of Personnel Management (OPM) and could only have been accessed through a link provided by OPM that would grant access to the application.

(4) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) , testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate management official within NAVSUP FLCN.

(5) In their interviews with the IOs, at least five individuals testified to having directly received that link from (b) (6), (b) (7)(C)

(6) (b) (6), (b) (7)(C) testified that she did in fact have possession of those links and that she repeatedly distributed the links personally to individuals of whom she was often made aware by NAVSUP FLCN employees - such as those whose resumes NAVSUP FLCN employees had passed to her.

(7) To that regard, (b) (6), (b) (7)(C) testified, "Sometimes resumes would have come from people in the building. Sometimes yes, sometimes no. Probably more often than not."

(8) When asked whether the resumes she received were those of NAVSUP FLCN employee's family members, (b) (6), (b) (7)(C) stated, "Oh yeah, absolutely. The

program was referred to as 'friends and family.' NAVSUP absolutely did. SUP03 actually put out a booklet on that."

(9) The NAVSUP Recruiting Handbook: Hiring Strategies for the Future, Draft Version 1, of February 2008 is posted to the MYNAVSUP website, on the People page, under the "Recruiting" tab, labeled "Recruiting Handbook -- DRAFT --"

(10) The draft handbook states, "Many employers in tight hiring markets have found that eliminating rules prohibiting nepotism vastly expands their choices of candidates. Check with your HR department about conducting 'friends and family' promotions and adhere to HR guidelines." In conducting these "promotions", NAVSUP FLC Norfolk failed to comply with HR guidelines, regulations and laws.

(11) Certificate of Eligibles #AN-07-DPG-01434S0, dated 17 January 2007, for a GS-1102-07, was advertised by OPM and produced 65 candidates, of which 12 were veterans.

(12) Approximately three months later, on 16 March 2007, the Certificate of Eligibles #AN-132793, which NAVSUP FLCN chose not to advertise, produced just six candidates, of which only one was a veteran. Additionally, four of the six candidates had familial ties to employees of the NAVSUP FLCN organization and/or the greater NAVSUP community, with an additional candidate whom had a known association with an employee in the servicing HRO.

(13) (b) (6), (b) (7)(C) testified that she would not be surprised to find out that there are a high number of relatives employed by NAVSUP FLCN.

(14) (b) (6), (b) (7)(C) testified that the specific intent of these actions was not to employ relatives of NAVSUP FLCN and NAVSUP employees, "I don't think there was any purposeful intention to do it that way. We were trying to fill jobs."

(15) In regard to recruiting efforts made by (b) (6), (b) (7)(C) she testified, "In Code 200, we were doing a lot of recruiting. We had a ton of vacancies. I want to say 35-45 vacancies and I want to say (b) (6), (b) (7)(C) was at COMFISCS and there was a lot of pressure to get them filled, so I was always trying to keep in contact with the colleges and universities. At one point, we were going to their job fairs, but then we could use their websites so we were doing a lot of that."

(16) After a review of copious amounts of personnel documentation from NAVSUP FLCN, the IOs were unable to establish a correlation between universities at which FCIP recruitments allegedly took place and the "friends and family" ultimately selected.

(17) With respect to the summer hire program, NAVSUP FLCN has again historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit by word of mouth only. NAVSUP FLCN then selects candidates received through that practice without interview and processes them as by-name requests.

(18) Under (b) (6), (b) (7)(C) leadership, at least 40 individuals with familial ties to the NAVSUP FLCN organization and/or the NAVSUP community were appointed, promoted, and advanced within NAVSUP FLCN.

(19) The selection certificates for 23 of these 40 individuals were generated by unadvertised job announcements, accessible only through a link/announcement number provided by OPM and given to the applicant by NAVSUP FLCN management.

(20) Several of these individuals (including (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)) testified that (b) (6), (b) (7)(C) was directly involved in facilitating their application for summer employment, either by soliciting an application or setting up the job.

(21) An overwhelming majority of witness testified that perceptions of favoritism and impropriety have had a profoundly negative effect on the climate at NAVSUP FLCN. Personnel stated they lack faith that management will "do the right thing" when the relatives of other employees are involved, particularly if they are relatives of senior management.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(14), employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) Despite (b) (6), (b) (7)(C) reference to the draft version of the NAVSUP Recruitment Handbook, the document was never signed into effect and its suggestion of "eliminating rules prohibiting nepotism to vastly expand the choices of candidates" not only holds no merit, but also refers to doing so in the instance of a "tight hiring market", of which NAVSUP FLCN was not affected as evidenced by the sheer numbers of candidates received when positions were advertised.

(3) The exceedingly low yield of six candidates produced by #AN-132793 of 16 March 2007 in comparison with the 65 candidates produced by #AN-07-DPG-01434S0 of 17 January 2007 - both within a three month time span - shows both that there was a healthy market for GS-1102-07 eligible candidates at the time, and therefore indicates a very limited distribution of the unadvertised 16 March 2007 announcement, for which (b) (6), (b) (7)(C) would have been in possession of the link. Such a low number of applicants on #AN-132793 suggests limited distribution to targeted individuals.

(4) (b) (6), (b) (7)(C) claims that the "friends and family" practices employed by herself on behalf of the NAVSUP FLCN organization were an effort to expand the choices of candidates in a struggle to fill positions also holds no validity as those practices in fact impeded competition by decreasing the scope of recruitment and subsequently resulted in a much lower volume of candidates, as also evidenced by the difference in the number of candidates yielded by the advertised 17 January 2007 Certificate of Eligibles vice that produced by the unadvertised 16 March 2007 Certificate of Eligibles.

(5) Contrary to (b) (6), (b) (7)(C) statements that there were ongoing efforts to recruit at specific colleges and universities, IOs were unable to find much correlation between certain universities to which such a recruitment could have taken place and the alma maters of those "friends and family" that were ultimately selected. In addition, the low volume of candidates produced by the FCIP announcements is not consistent with a wide distribution such as the posting

of a link to a public forum like a university career website. Rather, the small numbers of candidates produced suggest targeted recruitment and selective distribution of the link for application.

(6) The practices that (b) (6), (b) (7)(C) employed in the recruitment of employees between March 2006 and present, particularly for coveted FCIP opportunities, resulted in a culture of widespread nepotism and an overwhelming appearance of impropriety which has since severely affected the morale of NAVSUP FLCN's workforce.

(7) As a senior leader in the organization with direct responsibility over personnel matters, (b) (6), (b) (7)(C) played an instrumental role in the implementation of the FCIP and student hire program at NAVSUP FLCN. She exploited the flexibilities afforded by those programs to favor the employment of "friends and family", resulting in the hire of at least 40 individuals with familial ties to NAVSUP FLCN and/or the NAVSUP community, including relatives of the (b) (6), (b) (7)(C) the Directors of Code 200 and 300, and her own niece and (b) (6), (b) (7)(C). Her involvement and personal approval of these appointments perpetuated the appearance of nepotism and related improprieties.

(8) (b) (6), (b) (7)(C) participation in the selective distribution of the links to applications for employment at NAVSUP FLCN to individuals with familial ties to the NAVSUP FLCN organization and NAVSUP Enterprise, as well as her involvement in the employment, promotion, and advancements of those individuals, has created the appearance of impropriety by means of violations of civil service laws, rules, and regulations, in violation of 5 CFR 2635.101(b)(14).

(9) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

25. Twenty-third Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2303(c) by failing to prevent prohibited personnel practices and ensure NAVSUP Fleet Logistics Center Norfolk's (FLCN) compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management during the time period of March 2006 until the present. **Substantiated.**

a. Facts

(1) 5 USC 2302(c) states that the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(2) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) from June 2008 until the present, in which capacity she has been delegated the authority for personnel management.

(3) As (b) (6), (b) (7)(C) she is directly responsible for all personnel actions within NAVSUP FLCN and has intimate knowledge of personnel requirements and influence over all aspects of personnel management.

(4) Prior to taking on the role of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C), in which capacity she was also delegated the authority for the personnel management of Code 200, for which she was heavily involved and held significant influence.

(5) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. The PMAB membership consists of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), (b) (6), (b) (7)(C)

(6) (b) (6), (b) (7)(C) has been a key member of the PMAB since becoming the (b) (6), (b) (7)(C) in June 2008.

(7) Under (b) (6), (b) (7)(C) leadership, the following Prohibited Personnel Practices and other civil service laws, rules, and regulations were found to have been violated:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

(8) During the course of this investigation, the following civil service laws, rules, and regulations were found to have been violated by (b) (6), (b) (7)(C) in particular:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(c), the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management.

(2) As the former (b) (6), (b) (7) (c), Code 200 and the current (b) (6), (b) (7) (C) NAVSUP FLCN, (b) (6), (b) (7) (C) has been delegated authority for personnel management and, therefore, responsible for the prevention of prohibited personnel practices and for the compliance with and enforcement of applicable civil service laws, rules, and regulations.

(3) As a key member of the PMAB - the ultimate approving authority for personnel actions within NAVSUP FLCN - (b) (6), (b) (7) (C) has direct influence over and intimate involvement with the personnel matters of the organization. In such a capacity, (b) (6), (b) (7) (C) would have been aware of the hiring and personnel practices taking place within the organization and in a position to address improprieties.

(4) On various occasions throughout her tenure as (b) (6), (b) (7) (c), (b) (6), (b) (7) (C), and (b) (6), (b) (7) (C) NAVSUP FLCN, (b) (6), (b) (7) (C) not only failed to prevent prohibited personnel practices and violations of applicable civil service laws, rules, and regulations, but was personally responsible for the violation of at least seven of those laws, rules, and regulations, in violation of 5 USC 2302(c).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

26. Twenty-fourth Allegation: That (b) (6), (b) (7) (C) violated Title 5, United States Code, Section 2303(b)(6) by defining the scope or manner of competition for positions within the NAVSUP Fleet Logistics Center Norfolk (FLCN) for the purpose of improving or injuring the prospects of particular persons for employment during the period of time beginning in or around March 2006 until present.

a. Facts

(1) 5 USC 2302(b)(6) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) (b) (6), (b) (7) (C) has held the position of (b) (6), (b) (7) (C) since June 2008, in which capacity she has the authority to take, direct others to take, recommend, and approve personnel actions within NAVSUP FLCN and had intimate knowledge of staffing requirements and influence over selections.

(3) In addition, (b) (6), (b) (7) (C) holds a key position on the Position Management Advisory Board (PMAB), in which capacity she has further influence over and direct involvement with personnel matters of the organization.

(4) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for its program on its own.

(5) Under (b) (6), (b) (7)(C) leadership, at least 40 individuals with familial ties to the NAVSUP FLCN organization and/or the NAVSUP community were appointed, promoted, and advanced within NAVSUP FLCN.

(6) The certificates from which 23 of those 40 individuals with familial ties were selected were the product of job announcements that were not advertised by the Office of Personnel Management (OPM) and could only have been accessed through a link provided by OPM that would grant access to the application.

(7) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate management official within NAVSUP FLCN.

(8) In their interviews with the IOs, at least five individuals testified to having directly received that link from (b) (6), (b) (7)(C)

(9) (b) (6), (b) (7)(C) testified that she did in fact have possession of those links and that she repeatedly distributed the links personally to individuals of whom she was often made aware by NAVSUP FLCN employees - such as those whose resumes NAVSUP FLCN employees had passed to her.

(10) To that regard, (b) (6), (b) (7)(C) testified, "Sometimes resumes would have come from people in the building. Sometimes yes, sometimes no. Probably more often than not."

(11) When asked whether the resumes she received were those of NAVSUP FLCN employee's family members, (b) (6), (b) (7)(C) stated, "Oh yeah, absolutely. The program was referred to as 'friends and family'. NAVSUP absolutely did. SUP03 actually put out a booklet on that."

(12) The NAVSUP Recruiting Handbook: Hiring Strategies for the Future, Draft Version 1, of February 2008 is posted to the MYNAVSUP website, on the People page, under the "Recruiting" tab, labeled "Recruiting Handbook -- DRAFT --"

(13) The draft handbook states, "Many employers in tight hiring markets have found that eliminating rules prohibiting nepotism vastly expands their choices of candidates. Check with your HR department about conducting 'friends and family' promotions and adhere to HR guidelines."

(14) Certificate of Eligibles #AN-07-DPG-01434S0, dated 17 January 2007, for a GS-1102-07, was advertised by OPM and produced 65 candidates, of which 12 were veterans.

(15) Approximately three months later, on 16 March 2007, the Certificate of Eligibles #AN-132793, which NAVSUP FLCN chose not to advertise, produced just six candidates, of which only one was a veteran. Additionally, four of the six candidates had familial ties to employees of the NAVSUP FLCN

organization and/or the greater NAVSUP community, with an additional candidate whom had a known association with an employee in the servicing HRO.

(16) (b) (6), (b) (7)(C) testified that she would not be surprised to find out that there are a high number of relatives employed by NAVSUP FLCN.

(17) (b) (6), (b) (7)(C) testified to the intent of actions taken by herself and other leadership in the recruitment and employment of relatives of NAVSUP FLCN employees, "I don't think there was any purposeful intention to do it that way. We were trying to fill jobs."

(18) In regard to recruiting efforts made by (b) (6), (b) (7)(C) she testified, "In Code 200, we were doing a lot of recruiting. We had a ton of vacancies. I want to say 35-45 vacancies and I want to say (b) (6), (b) (7)(C) was at COMFISCs and there was a lot of pressure to get them filled, so I was always trying to keep in contact with the colleges and universities. At one point, we were going to their job fairs, but then we could use their websites so we were doing a lot of that."

(19) When it comes to their summer hire program, NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit by word of mouth only. NAVSUP FLCN then selects candidates received through that practice without interview and processes them as by-name requests.

(20) At least four of the 40 individuals identified and/or the NAVSUP FLCN employees to whom they are related testified to having been in contact with (b) (6), (b) (7)(C) regarding their candidacy for summer employment prior to their hire.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(6), any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) As the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) has the authority to take, direct others to take, recommend, and approve personnel actions across the NAVSUP FLCN organization.

(3) The exceedingly low yield of six candidates produced by #AN-132793 of 16 March 2007 in comparison with the 65 candidates produced by #AN-07-DPG-01434S0 of 17 January 2007 - all within a three month time span - shows both that there was a healthy market for GS-1102-07 eligible candidates at the time, and indicates a very limited distribution of the unadvertised 16 March 2007 announcement, for which (b) (6), (b) (7)(C) would have been in possession of the link. Such a low number of applicants on #AN-132793 suggests limited distribution to targeted individuals.

(4) (b) (6), (b) (7)(C) claims that the "friends and family" practices employed by herself on behalf of the NAVSUP FLCN organization were an effort to expand the choices of candidates in a struggle to fill positions also holds no validity as those practices in fact impeded competition by defining the scope of recruitment and subsequently resulting in a much lower volume of candidates.

This fact is evidenced by the difference in the number of candidates yielded by the advertised 17 January 2007 Certificate of Eligibles vice that produced by the unadvertised 16 March 2007 Certificate of Eligibles.

(5) Despite (b) (6), (b) (7)(C) reference to the draft version of the NAVSUP Recruitment Handbook, the document was never signed into effect and its suggestion of "eliminating rules prohibiting nepotism to vastly expand the choices of candidates" not only holds no merit, but also refers to doing so in the instance of a "tight hiring market", of which NAVSUP FLCN was not affected as evidenced by the sheer numbers of candidates received when a legitimate recruitment effort was made.

(6) Contrary to (b) (6), (b) (7)(C) statements that there were ongoing efforts to recruit at specific colleges and universities, IOs were unable to find a significant correlation between certain universities to which such a recruitment could have taken place and the alma maters of those individuals that were ultimately selected. In addition, the low volume of candidates produced by the FCIP announcements between 2007 and 2010 is not consistent with a wide distribution such as the posting of a link to a public forum like a university career website. Rather, the small numbers of candidates produced suggests targeted recruitment and selective distribution of the link for application.

(7) The practices that (b) (6), (b) (7)(C) employed in the recruitment of employees, many with familial ties to the NAVSUP FLCN organization and/or the greater NAVSUP community, between March 2006 and present, particularly for coveted FCIP opportunities, resulted in a definition of scope that obstructed competition and, therefore, granted preference and advantage not authorized by law, rule, or regulation to those applicants for employment with the purpose of improving their prospects for employment, in violation of 5 USC 2302(b)(6).

(8) Following their initial hires, the advancements of those individuals, such as their promotions within their FCIP career ladder positions, were built upon the foundation of an employment that had been acquired by means of preferences and advantages granted to them by (b) (6), (b) (7)(C)

(9) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

27. Twenty-fifth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2301(b)(1), "Merit System Principles", through efforts to target specific individuals for employment with NAVSUP Fleet Logistics Center Norfolk (FLCN) with the utilization of selective recruitment practices that prevented fair and open competition and denied equal opportunity to other potential candidates, during the period of time beginning in March 2006 until present. **Substantiated.**

a. Facts

(1) 5 USC 2301(b)(1) states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined

solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) since June 2008, in which capacity she has the authority to take, direct others to take, recommend, and approve personnel actions within NAVSUP FLCN and has intimate knowledge of staffing requirements and influence over selections.

(3) In addition, (b) (6), (b) (7)(C) holds a key position on the Position Management Advisory Board (PMAB), in which capacity she has further influence over and direct involvement with personnel matters of the organization.

(4) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for its program on its own.

(5) Under (b) (6), (b) (7)(C) leadership, at least 40 individuals with familial ties to the NAVSUP FLCN organization and/or the NAVSUP community were appointed, promoted, and advanced within NAVSUP FLCN.

(6) The certificates from which 23 of those 40 individuals with familial ties were selected, were the product of job announcements that were not advertised by the Office of Personnel Management (OPM) and could only have been accessed through a link provided by OPM that would grant access to the application.

(7) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate management official within NAVSUP FLCN.

(8) In their interviews with the IOs, at least five individuals testified to having directly received that link from (b) (6), (b) (7)(C)

(9) (b) (6), (b) (7)(C) testified that she did in fact have possession of those links and that she repeatedly distributed the links personally to individuals of whom she was often made aware by NAVSUP FLCN employees - such as those whose resumes NAVSUP FLCN employees had passed to her.

(10) To that regard, (b) (6), (b) (7)(C) testified, "Sometimes resumes would have come from people in the building. Sometimes yes, sometimes no. Probably more often than not."

(11) When asked whether the resumes she received were those of NAVSUP FLCN employee's family members, (b) (6), (b) (7)(C) stated, "Oh yeah, absolutely. The program was referred to as 'friends and family'. NAVSUP absolutely did. SUP03 actually put out a booklet on that."

(12) The NAVSUP Recruiting Handbook: Hiring Strategies for the Future, Draft Version 1, of February 2008 is posted to the MYNAVSUP website, on the People page, under the "Recruiting" tab, labeled "Recruiting Handbook -- DRAFT --"

(13) The draft handbook states, "Many employers in tight hiring markets have found that eliminating rules prohibiting nepotism vastly expands their

choices of candidates. Check with your HR department about conducting 'friends and family' promotions and adhere to HR guidelines."

(14) Certificate of Eligibles #AN-07-DPG-01434S0, dated 17 January 2007, for a GS-1102-07, was advertised by OPM and produced 65 candidates, of which 12 were veterans.

(15) Approximately three months later, on 16 March 2007, the Certificate of Eligibles #AN-132793, which NAVSUP FLCN chose not to advertise, produced just six candidates, of which only one was a veteran. Additionally, four of the six candidates had familial ties to employees of the NAVSUP FLCN organization and/or the NAVSUP Enterprise, with an additional candidate whom had a known association with an employee in the servicing HRO.

(16) (b) (6), (b) (7)(C) testified that she would not be surprised to find out that there are a high number of relatives employed by NAVSUP FLCN.

(17) (b) (6), (b) (7)(C) testified to the intent of actions taken by herself and other leadership in the recruitment and employment of relatives of NAVSUP FLCN employees, "I don't think there was any purposeful intention to do it that way. We were trying to fill jobs."

(18) In regard to recruiting efforts made by (b) (6), (b) (7)(C) she testified, "In Code 200, we were doing a lot of recruiting. We had a ton of vacancies. I want to say 35-45 vacancies and I want to say (b) (6), (b) (7)(C) was at COMFISCs and there was a lot of pressure to get them filled, so I was always trying to keep in contact with the colleges and universities. At one point, we were going to their job fairs, but then we could use their websites so we were doing a lot of that."

(19) After a review of copious amounts of personnel documentation from NAVSUP FLCN, the IOs were unable to find a substantial correlation between a certain university to which an FCIP recruitment could have taken place and those individuals that were ultimately selected.

(20) When it comes to their summer hire program, NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit by word of mouth only. NAVSUP FLCN then selects candidates received through that practice without interview and processes them as by-name requests.

(21) At least four of the 37 individuals identified and/or the NAVSUP FLCN employees to whom they are related testified to having been in contact with (b) (6), (b) (7)(C) regarding their candidacy for summer employment prior to their hire.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2301(b)(1), recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) As the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) has the authority to take, direct others to take, recommend, and approve personnel actions across the NAVSUP FLCN organization.

(3) The exceedingly low yield of six candidates produced by #AN-132793 of 16 March 2007 in comparison with the 65 candidates produced by #AN-07-DPG-01434S0 of 17 January 2007 - all within a three month time span - shows that there was a healthy market for GS-1102-07 eligible candidates at the time, and therefore, indicates a very limited distribution of the unadvertised 16 March 2007 announcement, for which (b) (6), (b) (7)(C) would have been in possession of the link for application. Such a low number of applicants on #AN-132793 suggests limited distribution to targeted individuals.

(4) (b) (6), (b) (7)(C) claims that the "friends and family" practices employed by herself on behalf of the NAVSUP FLCN organization were an effort to expand the choices of candidates in a struggle to fill positions holds no validity as those practices in fact impeded competition by defining the scope of recruitment and subsequently resulting in a much lower volume of candidates. This fact is evidenced by the difference in the number of candidates yielded by the two referenced Certificate of Eligibles and indicates that fair and open competition did not take place when those practices were employed.

(5) Despite (b) (6), (b) (7)(C) reference to the draft version of the NAVSUP Recruitment Handbook, the document was never signed into effect and its suggestion of "eliminating rules prohibiting nepotism to vastly expand the choices of candidates" not only holds no merit, but also refers to doing so in the instance of a "tight hiring market," of which NAVSUP FLCN was not affected as evidenced by both witness testimony and the sheer numbers of candidates received when a legitimate recruitment effort was made.

(6) Contrary to (b) (6), (b) (7)(C) statements that there were ongoing efforts to recruit at specific colleges and universities, IOs were unable to find a significant correlation between certain universities to which such a recruitment could have taken place and the alma maters of those individuals that were ultimately selected. In addition, the low volume of candidates produced by the FCIP announcements between 2007 and 2010 is not consistent with a wide distribution such as the posting of a link to a public forum like a university career website. Rather, the small numbers of candidates produced suggests targeted recruitment and selective distribution of the link for application.

(7) The practices that (b) (6), (b) (7)(C) employed in the recruitment of employees, many with familial ties to the NAVSUP FLCN organization and/or the greater NAVSUP community, between March 2006 and present, particularly for coveted FCIP opportunities, resulted in a definition of scope that obstructed competition. Recruitment for the positions to which those individuals were selected, therefore, was not from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society.

(8) As a result of (b) (6), (b) (7)(C) obstruction of competition in favor of the identified individuals, their selections and subsequent advancements were not determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition to assure that all receive equal opportunity, in violation of 5 USC 2301(b)(1).

(9) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

28. Twenty-sixth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program", by failing to provide proper guidance in the execution of the Student Temporary Employment Program (Schedule B 213.3202(a)) at NAVSUP Fleet Logistics Center Norfolk (FLCN) and subsequently allowing the employment of students in the same agency with a relative in a position to influence or control the student's appointment, employment, promotion or advancement within the agency, during the time period of August 2007 and present. **Substantiated.**

a. Facts

(1) 5 CFR 213.3202(a)(7)(2007), states employment of relatives: In accordance with 5 CFR part 310, a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(2) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. The PMAB membership consists of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) until his departure in December of 2008 and replaced by (b) (6), (b) (7)(C) there was an overlap from June 2008-December 2008; and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(3) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(4) NAVSUP FLCN processes all summer hires as by-name requests, the PMAB would approve the employment of all summer hires.

(5) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which she is in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(6) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(7) According to (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, on 17 September 2007, (b) (6), (b) (7)(C) was reappointed as a summer hire, GS-0344-05, not to exceed 17 September 2008, through an additional by-name request.

(8) (b) (6), (b) (7)(C) summer hire appointment was extended 17 September 2008, not to exceed 17 September 2009 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(9) (b) (6), (b) (7)(C) Standard Form - 52 (SF-52), Request for Personnel Action, her initial summer hire, effective 24 May 2011 and not to exceed 30 September 2011, was processed as a by-name request, at which point, her name was present on documents submitted to the PMAB for approval.

(10) (b) (6), (b) (7)(C) summer hire appointment was extended 1 October 2011, not to exceed 30 September 2012 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(11) (b) (6), (b) (7)(C) summer hire appointment was extended October 2012, not to exceed 30 September 2013 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(12) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN from 2000 until October 2011, in which she was in a position that could have influenced or controlled the student's appointment, employment, promotion or advancement within NAVSUP FLCN Code 200.

(13) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(14) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, his initial summer hire as a GS-0344-05, effective 19 May 2008, was processed as a by-name request.

(15) On 15 June 2009, (b) (6), (b) (7)(C) was reappointed as a summer hire, GS-0344-05, not to exceed 30 September 2009, through an additional by-name request.

(16) According to the testimony of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(17) Human Resources Service Center - East (HRSC-E) data pull covering the period May 2006 - July 2012 list (b) (6), (b) (7)(C) as a summer hire effective 12 July 2010 as a Management Clerk GS 0344-04 in the Contracting Department of NAVSUP FLCN.

(18) (b) (6), (b) (7)(C) was selected for the position of (b) (6), (b) (7)(C) May 2008, in which she is in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(19) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(20) Human Resources Service Center - East (HRSC-E) data pull covering the period May 2006 - July 2012 list (b) (6), (b) (7)(C) as a summer hire effective 20 June 2011 as a Management Clerk GS 0344-03 in the Contracting Department of NAVSUP FLCN.

(21) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(22) Human Resources Service Center - East (HRSC-E) data pull covering the period May 2006 - July 2012 list (b) (6), (b) (7)(C) as a summer hire effective 02 July 2007 as a Management Clerk GS 0344-03 in the Acquisition Business Management Division Code 205 of the NAVSUP FLCN Code 200.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 213.3202(a)(7)(2007), employment of relatives: In accordance with 5 CFR part 310, a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(3) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(4) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(5) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(6) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(7) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(8) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) appointments - as well as their subsequent extensions - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(9) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) approved the appointment, employment, and subsequent extension of her (b) (6), (b) (7)(c), (b) (6), (b) (7)(C) in violation of Title 5, United States Code, Section 213.3202(a)(7)(2007).

(10) As a key member of the PMAB, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(11) As the (b) (6), (b) (7)(c), Code (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(12) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN Code 200.

(13) As a key member of the NAVSUP FLCN's PMAB, the (b) (6), (b) (7)(c), (b) (6), (b) (7)(c), and (b) (6), (b) (7)(C) NAVSUP FLCN, (b) (6), (b) (7)(C) approved the employment, of her (b) (6), (b) (7)(c) and (b) (6), (b) (7)(c) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), and allowed the appointment, employment, and subsequent extension of others with relatives in a position to influence or control the student's

appointment, employment, promotion or advancement within the agency in violation of Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program".

(14) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

29. Twenty-seventh Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program", by failing to provide proper guidance in the execution of the Student Temporary Employment Program (Schedule B 213.3202(a)) at NAVSUP Fleet Logistics Center Norfolk (FLCN) and subsequently allowing the employment of students in the same agency with a relative in a position to influence or control the student's appointment, employment, promotion or advancement within the agency, during the time period of August 2007 until the present. **Substantiated.**

a. Facts

(1) 5 CFR 213.3202(a)(7)(2007), states that a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(2) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. The PMAB membership consists of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) until his departure in December of 2008 and replaced by (b) (6), (b) (7)(C) with an overlap from June 2008-December 2008; and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(3) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) - who is responsible for preparing documents for the PMAB - some personnel actions may have names associated with them at the time of their submission to the PMAB for approval. Such actions include by-name requests, reassignments, and career-ladder promotions.

(4) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(5) NAVSUP FLCN processes all summer hires as by-name requests.

(6) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she has influence or control over a student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(7) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(8) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, on 17 September 2007, (b) (6), (b) (7)(C) was appointed as a summer hire, GS-0344-05, not to exceed 17 September 2008, through a by-name request.

(9) (b) (6), (b) (7)(C) summer hire appointment was extended 17 September 2008, not to exceed 17 September 2009 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(10) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, her initial summer hire was effective 24 May 2011 and not to exceed 30 September 2011, and was also processed as a by-name request, at which point, her name was present on documents submitted to the PMAB for approval.

(11) On 1 October 2011, (b) (6), (b) (7)(C) summer hire appointment was extended, not to exceed 30 September 2012 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(12) (b) (6), (b) (7)(C) summer hire appointment was again extended October 2012, not to exceed 30 September 2013 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(13) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN from 2000 until October 2011, in which capacity she was in a position that could have influenced or controlled a student's appointment, employment, promotion or advancement within NAVSUP FLCN Code 200.

(14) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(15) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, his initial summer hire as a GS-0344-05, effective 19 May 2008, was processed as a by-name request.

(16) On 15 June 2009, (b) (6), (b) (7)(C) was reappointed as a summer hire, GS-0344-05, not to exceed 30 September 2009, through an additional by-name request.

(17) According to the testimony of (b) (6), (b) (7)(C), she asked HRO if it was okay to hire (b) (6), (b) (7)(C) in NAVSUP FLCN Code 200. (b) (6), (b) (7)(C) stated, "I had the same concerns when (b) (6), (b) (7)(C) was hired and she (b) (6), (b) (7)(C) said we were fine. Even though he was ultimately in my chain since I was running things. She said there had to be people between you so that you were supervising the people between you. There was branch head and a division director in between.

(18) According to the testimony of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(19) Human Resources Service Center - East (HRSC-E) data pull covering the period May 2006 through July 2012 lists (b) (6), (b) (7)(C) as a summer hire

effective 12 July 2010 as a Management Clerk, GS-0344-04, in Code 200 NAVSUP FLCN.

(20) (b) (6), (b) (7)(C) was selected for the position of (b) (6), (b) (7)(C) in May 2008, in which capacity she is in a position that could influence or control a student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(21) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is the niece of (b) (6), (b) (7)(C)

(22) Human Resources Service Center - East (HRSC-E) data pull covering the period May 2006 through July 2012 list (b) (6), (b) (7)(C) as a summer hire effective 20 June 2011 as a Management Clerk, GS-0344-03, in Code 200 NAVSUP FLCN.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 213.3202(a)(7)(2007), a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(3) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(4) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(5) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(6) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a) (3).

(7) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) appointments - as well as their subsequent extensions - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(8) As a key member of the PMAB, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(9) As the (b) (6), (b) (7)(C) NAVSUP FLCN Code (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) and, (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN Code 200.

(10) (b) (6), (b) (7)(C) guidance to (b) (6), (b) (7)(C) regarding the hiring of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) within her department, violated Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program."

(11) As a key member of the NAVSUP FLCN's PMAB, a Supervisory Human Resources Specialist, and the (b) (6), (b) (7)(C) of the satellite office of the Human Resources Office Norfolk, (b) (6), (b) (7)(C) failed to provide proper guidance to NAVSUP FLCN management as indicated by the hiring of 5 relatives, 3 of the relatives related to members of the PMAB, in violation of Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program".

(12) Based on the foregoing evidence, (b) (6), (b) (7)(C) aided and abetted NAVSUP FLCN management in violating 5 C.F.R. 213.3202(a)(7)(2007). This allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

30. Twenty-eighth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(14), "Basic Obligation of Public Service", by failing to provide proper guidance to NAVSUP Fleet Logistics Center Norfolk (FLCN) management in the use of the Federal Career Intern Program (FCIP) and subsequently created an appearance of impropriety, during the time period of August 2007 and present. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(14) states that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) During the course of this investigation, overwhelming witness testimony was made as to the poor climate of NAVSUP FLCN and the impact the numerous perceived improprieties have had on the morale of its personnel. Personnel appear to have a lack of faith in management to "do the right thing" when the relatives of senior management are involved.

(3) According to (b) (6), (b) (7)(C) testimony she has held the position of (b) (6), (b) (7)(C) from August 2007 until the present. "I am the (b) (6), (b) (7)(C) and this office is responsible for providing advisory services to management in the areas of staffing, labor employee relations, and other areas depending on circumstances such as classification and compensation and other programs associated with the HR world."

(4) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. The PMAB membership consists of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) until his departure in December of 2008 and replaced by (b) (6), (b) (7)(C) with an overlap from June 2008-December 2008;

(5) According to OPM guidance, public notice is not required when filling positions under the Career Intern Program; however, agencies must follow merit principles when filling vacancies under the Career Intern Program.

(6) Also according to OPM guidance, Career Interns shall participate in a formal program of training and job assignments to develop competencies that the OPM identifies as core to the Program, and the employing agency identifies as appropriate to the agency's mission and needs. In that regard, OPM requires a two year formal training and development program.

(7) Department of Navy Memorandum, "DEPARTMENT OF THE NAVY CAREER INTERN PROGRAM", dated 25 April 2002, enclosure (1), states "Supervisors in collaboration with Human Resource Offices will identify the competencies needed in order for an individual to perform the work of the position; identify appropriate targeted recruitment sources of candidates with the appropriate background, skills, or education." The memorandum also states, "Selections will be made in accordance with 5 CFR 302 and Merit Principles."

(8) Department of Navy Memorandum, "DEPARTMENT OF THE NAVY CAREER INTERN PROGRAM", dated 25 April 2002, enclosure (1), states "DON commands/activities must have a formal training program established for positions in order to utilize this authority. Individuals hired under this program will be appointed in the Excepted Service under Schedule B authority found at CFR 213.3202 (o) and will be required to successfully complete a two-year formal training/development program."

(9) Department of Navy Memorandum, "DEPARTMENT OF THE NAVY CAREER INTERN PROGRAM", dated 25 April 2002, enclosure (1), states, "Selections will be made in accordance with 5 CFR 302 and Merit Principles."

(10) The certificates from which individuals with familial ties were selected were the products of job announcements that were not advertised by the Office of Personnel Management (OPM) and could only have been accessed through the link provided by OPM.

(11) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate hiring authority within NAVSUP FLCN.

(12) During (b) (6), (b) (7)(C) tenure, the Federal Career Intern Program was utilized to employ individuals with familial ties from February 2008 through September 2010. OPM issued 22 certificates for NAVSUP FLCN that were based on limited distribution of web links that were controlled by NAVSUP FLCN. Of the 22 certificates, 13 of the certificates included 18 names with familial ties to NAVSUP and/or the NAVSUP community. The 13 certificates had less than 11 eligible candidates on each certificate, 7 of the certificates had less than 4 eligible candidates on each certificate, and 2 of the certificates had only 1 eligible candidate on each certificate.

(13) (b) (6), (b) (7)(C) name appeared on Certificate #AN-08-MFL-02630S0, issued 5 March 2008, for a Contract Specialist, GS-1102-05 and Certificate #AN-08-MFL-02640S0, issued 5 March 2008, for a Contract Specialist,

GS-1102-07. Both certificates had less than four eligible candidates on each certificate. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is (b) (6), (b) (7)(C) who was the NAVSUP FLCN (b) (6), (b) (7)(C) and a member of the PMAB at the time of his hire.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(14), employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) According to (b) (6), (b) (7)(C) testimony, she has held the position of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) from August 2007 until the present, in which capacity she provides the primary human resource guidance to NAVSUP FLCN. (b) (6), (b) (7)(C) explained, "I am the (b) (6), (b) (7)(C) and this office is responsible for providing advisory services to management in the areas of staffing, labor employee relations, and other areas depending on circumstances such as classification and compensation. Other programs associated with the HR world."

(3) As to whether selective/limited recruitment took place under the program, (b) (6), (b) (7)(C) stated, "Yeah, it sure was because the manager was provided a link and only individuals that knew about that link were going to be able to apply to that position." As to how many eligible candidates should be expected on a certificate of eligibles that has been adequately recruited, (b) (6), (b) (7)(C) testified, "It depends. Sometimes there's been one, sometimes there's been more than one. Depending on the job. There's nothing in the regulations that addressed that, not at all."

(4) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for its program on its own.

(5) The limited number of eligible candidates produced by the NAVSUP FLCN distributed announcements and the requirement for waivers validates selective distribution that did not identify appropriate targeted recruitment sources of candidates with the adequate background, skills, or education referenced by the DON memorandum.

(6) Based on interviews with individuals selected for positions outside the 1102 job series under the FCIP authority, no formal training program existed as required by OPM and the DoN Memorandum dated 25 April 2002. (b) (6), (b) (7)(C) provided a hard copy of these directives, which she kept in a binder labeled as "Federal Career Intern Program".

(7) After a review of copious amounts of personnel documentation from NAVSUP FLCN, the IOs were unable to find a substantial correlation between a certain university to which an FCIP recruitment could have taken place and those individuals that were ultimately selected.

(8) During (b) (6), (b) (7)(C) tenure, the Federal Career Intern Program was utilized to employ individuals with familial ties from February 2008 until September 2010. During that time, OPM issued 22 certificates for NAVSUP FLCN that were based on limited distribution of web links that were strategically controlled by NAVSUP FLCN. Of the 22 certificates, 13 of the certificates

included 18 individuals with familial ties. 13 certificates had less than 11 eligible candidates on each certificate, 7 of the certificates had less than 4 eligible candidates on each certificate, and 2 of the certificates had only 1 eligible candidate on each certificate. Of the 22 certificates, 7 of the certificates included a total of 12 veterans.

(9) As a key member of NAVSUP FLCN's PMAB, (b) (6), (b) (7) (c) Human Resources Specialist, and the (b) (6), (b) (7) (C) failed to provide proper guidance to NAVSUP FLCN management or intervene in the hiring and recruitment practices that produced limited numbers of eligibles on certificates and resulted in a culture of nepotism within NAVSUP FLCN and allowed for the appearance that the law or ethical standards were being violated from the perspective of a reasonable person with knowledge of the relevant facts.

(10) Based on the foregoing evidence, (b) (6), (b) (7) (C) aided and abetted NAVSUP FLCN management in violating Title 5, Code of Federal Regulations, Section 2635.101(b)(14). This allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

31. Twenty-ninth Allegation: That (b) (6), (b) (7) (C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(14), "Basic Obligation of Public Service", by failing to provide proper guidance in the execution of the Student Temporary Employment Program (Schedule B 213.3202(a)) of NAVSUP Fleet Logistics Center Norfolk (FLCN) and subsequently creating an appearance of impropriety, during the time period of August 2007 until the present. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(14) states that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) During the course of this investigation, overwhelming witness testimony was made as to the poor climate of NAVSUP FLCN and the impact the numerous perceived improprieties have had on the morale of its personnel. Personnel appear to have a lack of faith in management to "do the right thing" when the relatives of senior management are involved

(3) According to (b) (6), (b) (7) (C) testimony she has held the position of (b) (6), (b) (7) (C), (b) (6), (b) (7) (C), from August 2007 until the present: "I am the (b) (6), (b) (7) (C) and this office is responsible for providing advisory services to management in the areas of staffing, labor employee relations, and other areas depending on circumstances such as classification and compensation and other programs associated with the HR world."

(4) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. The PMAB membership consists of the (b) (6), (b) (7) (C) (b) (6), (b) (7) (C)

the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) until his departure in December of 2008 and replaced by (b) (6), (b) (7)(C) with an overlap from June 2008-December 2008; and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(5) 5 CFR 213.3202(a)(7)(2007) states that a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(6) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(7) NAVSUP FLCN then selects candidates received through that practice without interview and processes them as by-name requests.

(8) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) of NAVSUP FLCN from June 2000 until the present, in which capacity she has been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN.

(9) Human Resources Service Center - East (HRSC-E) data pull covering the period September 2007 through July 2012, lists 49 appointment actions, 3 of which remain onboard. 23 of the appointment actions are for individuals with confirmed familial ties to NAVSUP FLCN and/or the NAVSUP community, and 14 of the appointment actions are for relatives listed in the original complaint.

(10) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, On 17 September 2007, (b) (6), (b) (7)(C) was reappointed as a summer hire, GS-0344-05, not to exceed 17 September 2008, through an additional by-name request.

(11) (b) (6), (b) (7)(C) summer hire appointment was extended 17 September 2008, not to exceed 17 September 2009 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(12) In keeping with such practices and according to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, her initial summer hire, effective 24 May 2011 and not to exceed 30 September 2011, was processed as a by-name request, at which point her name was present on documents submitted to the PMAB for approval.

(13) On 1 October 2011, (b) (6), (b) (7)(C) summer hire appointment was extended, not to exceed 30 September 2012 - at which point her name was again associated with documents submitted to the PMAB for approval of her extension.

(14) (b) (6), (b) (7)(C) summer hire appointment was once again extended October 2012, not to exceed 30 September 2013 - at which point her name was associated with documents submitted to the PMAB for approval of her extension.

(15) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C), NAVSUP FLCN from 2000 until October 2011, in which capacity she had been vested

the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN Code 200.

(16) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(17) In keeping with such practices and according to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, his initial summer hire as a GS-0344-05, effective 19 May 2008, was processed as a by-name request.

(18) On 15 June 2009, (b) (6), (b) (7)(C) was reappointed as a summer hire, GS-0344-05, not to exceed 30 September 2009, through an additional by-name request.

(19) According to the testimony of (b) (6), (b) (7)(C), she asked HRO if it was okay to hire (b) (6), (b) (7)(C) in NAVSUP FLCN Code 200. (b) (6), (b) (7)(C) stated, "I had the same concerns when (b) (6), (b) (7)(C) was hired and she (b) (6), (b) (7)(C) said we were fine. Even though he was ultimately in my chain since I was running things. She said there had to be people between you so that you were supervising the people between you. There was a branch head and a division director in between."

(20) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(21) Human Resources Service Center - East (HRSC-E) data pull covering the period May 2006 through July 2012 lists (b) (6), (b) (7)(C) as a summer hire Management Clerk, GS-0344-04, effective 12 July 2010 in Code 200 NAVSUP FLCN.

(22) (b) (6), (b) (7)(C) was selected for the position of (b) (6), (b) (7)(C) in May 2008, in which capacity she is directly responsible for personnel actions within NAVSUP FLCN and has direct knowledge of the summer hire requirements and influence over selections.

(23) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is the niece of (b) (6), (b) (7)(C)

(24) Human Resources Service Center - East (HRSC-E) data pull covering the period May 2006 through July 2012 list (b) (6), (b) (7)(C) as a summer hire Management Clerk, GS-0344-03, effective 20 June 2011 in Code 200 NAVSUP FLCN.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(14), employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) A review of the Human Resources Service Center - East (HRSC-E) data pull covering the period September 2007 through July 2012, reveals 49 appointment actions, 3 of which remain onboard. 23 of the appointment actions are for individuals with confirmed familial ties to NAVSUP FLCN and/or the NAVSUP

community, and 14 of the appointment actions are for relatives listed in the original complaint.

(3) NAVSUP FLCN has historically by passed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only. 16 out of the 49 appointment actions, from September 2007 through July 2012 involved relatives of senior personnel or personnel that deal with HRO office on a routine basis. This routine practice of advertisement by word of mouth only has created the appearance that the law or ethical standards were violated from the perspective of a reasonable person with knowledge of the relevant facts.

(4) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(5) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(6) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(7) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(8) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(9) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) appointments - as well as their subsequent extensions - serving in a position that could influence or control the student's appointment, employment, promotion, or advancement within NAVSUP FLCN.

(10) As a key member of the PMAB, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control a student's appointment, employment, promotion, or advancement within NAVSUP FLCN.

(11) As the (b) (6), (b) (7)(c) NAVSUP FLCN Code (b) (6), (b) (7)(c), (b) (6), (b) (7)(C) was, at the time of the appointments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN Code 200.

(12) (b) (6), (b) (7)(C) guidance to (b) (6), (b) (7)(C) regarding the hiring of (b) (6), (b) (7)(C) (b) (6), (b) (7)(c), (b) (6), (b) (7)(C) within her department, violated Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program" and his subsequent employment violated Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program"; therefore, perpetuating the appearance that the law or ethical standards were being violated from the perspective of a reasonable person with knowledge of the relevant facts, in violation of Title 5, Code of Federal Regulations, Section 2635.101(b)(14).

(13) As a key member of NAVSUP FLCN's PMAB, a (b) (6), (b) (7)(c) Human Resources Specialist, and the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) failed to provide proper guidance to NAVSUP FLCN management as indicated by the 49 appointment actions from word of

mouth recruitment only, of which 23 were for individuals with confirmed familial ties to NAVSUP FLCN and/or the NAVSUP community, 14 of which were named in the original complaint, and 16 of which involved relatives of senior personnel or personnel that deal with HRO office on a routine basis, in violation of Title 5, Code of Federal Regulations, Section 2635.101(b)(14).

(14) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

32. Thirtieth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2302(c) by failing to prevent prohibited personnel practices and ensure NAVSUP Fleet Logistics Center Norfolk's (FLCN) compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management during the time period of August 2007 until the present. **Substantiated.**

a. Facts

(1) 5 USC 2302(c) states that the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(2) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) has been delegated the authority for personnel management.

(3) Under (b) (6), (b) (7)(C) leadership as a key member of the NAVSUP FLCN's PMAB, a (b) (6), (b) (7)(C) Human Resources Specialist, and the (b) (6), (b) (7)(C), the following Prohibited Personnel Practices and other civil service laws, rules, and regulations were found to have been violated:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

(4) During the course of this investigation, the following civil service laws, rules, and regulations were found to have been violated by (b) (6), (b) (7) in particular: (C)

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(c), the head of each agency and officials with delegated personnel management authority shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management.

(2) As a (b) (6), (b) (7) (c) Human Resources Specialist, and the (b) (6), (b) (7) (C), (b) (6), (b) (7) (C) has been delegated authority for personnel management and, therefore, responsible for the prevention of prohibited personnel practices and for the compliance with and enforcement of applicable civil service laws, rules, and regulations.

(3) As a key member of the PMAB - the ultimate approving authority for all personnel actions within NAVSUP FLCN - (b) (6), (b) (7) (C) has direct influence over and intimate involvement with the personnel matters of the organization. In such a capacity, (b) (6), (b) (7) (C) would have been aware of the hiring and personnel practices taking place within the organization and in a position to address improprieties.

(4) On various occasions throughout her tenure as a (b) (6), (b) (7) (c) Human Resources Specialist, and the (b) (6), (b) (7) (C), (b) (6), (b) (7) (C) not only failed to prevent prohibited personnel practices and violations of applicable civil service laws, rules, and regulations, but was personally responsible for the violation of at least seven of those laws, rules, and regulations, in violation of 5 USC 2302(c).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

33. Thirty-first Allegation: That (b) (6), (b) (7) (C), while the (b) (6), (b) (7) (C) NAVSUP Fleet Logistics Center Norfolk (FLCN), violated Title 5, United States Code, Section 2302(b)(6) by granting preference or advantage not authorized by law, rule, or regulation to (b) (6), (b) (7) (C) an applicant for

employment and promotion with the NAVSUP FLCN, for the purpose of improving his prospects for employment during the period of time beginning in or around June 2006 until her departure in October 2011. Substantiated.

a. Facts

(1) 5 USC 2302(b)(6) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #142-09, on 27 March 2009 stating, "Request to hire GS-1102-12 Intern graduating on 23 May 2009. Upon approval request HRO process action to hire (b) (6), (b) (7)(C) The form was approved by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on 30 March 2009.

(3) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, he was promoted to a GS-1102-12, effective 24 May 2009.

(4) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #222-09, on 11 May 2009 stating, "Recruit two Contract Specialists, GS-1102-13 in the Contracting Department, Shore Installation Management Division. These are backfills of the positions vacated by the reassignments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to supervisory positions." The Recruit Area of Consideration was identified as "All DoD activities nationwide." The request was approved by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on 14 May 2009. It was annotated on 2 February 2010 that the request was cancelled "per telecon with (b) (6), (b) (7)(C) replaced by PMAB 013-10."

(5) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #013-10, on 11 January 2010 stating, "Recruit two Contract Specialists, GS-1102-13 in the Contracting Department, Shore Installation Management Division. These are backfills of the positions vacated by the reassignments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to supervisory positions." It was annotated on the form, "This cancels PMAB 222-09, RPA 364925." On the line for PP/Series/Grade, GS-1102-13 was typed and then "/12" was handwritten after the 13. The PD Number was MJ2184A typed, and then again, a handwritten addition of "/B" to the end of the PD number was made. The Recruit Area of Consideration indicated "SOI Code 200 Norfolk and NNSY offices" and the form was approved by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on 14 Jan 2010.

(6) PMAB Tracking Forms #001 to #648 from 2008, included five tracking forms for GS-1102-13 position positions, and just one for a GS-1102-12/13 position which was listed as "OBE".

(7) PMAB Tracking Forms #001 to #601 from 2009, included six tracking forms for GS-1102-13 positions, but zero for GS-1102-12/13 positions.

(8) PMAB Tracking Forms #001 to #489 from 2010, included six tracking forms for GS-1102-13 positions, and three for GS-1102-12/13 positions (one listed as OBE, the other two associated with the selection of (b) (6), (b) (7)(C) with the number 12 handwritten on the Grade line of the form).

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(6), any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) The cancellation of the GS-13 certificate and its replacement with a GS-12/13 certificate appears to have been done solely to facilitate consideration of (b) (6), (b) (7)(C) who was otherwise unqualified for the position. This also violated the NAVSUP policy of 08 February 2008, because it limited the area of consideration to NAVSUP FLCN "in the Hampton Roads Commuting area" and did not afford Navy-wide competition of the job.

(3) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #222-09, on 11 May 2009, "Recruit two Contract Specialists, GS-1102-13 in the Contracting Department, Shore Installation Management Division. These are backfills of the positions vacated by the reassignments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to supervisory positions." Recruit Area of Consideration: All DoD activities nationwide. Functional Manager comments/recommendation: Approved by (b) (6), (b) (7)(C) ED Decision: Approved by (b) (6), (b) (7)(C) 14 May 2009. Annotated on 2 February 2010 - cancelled per telecon with (b) (6), replaced by PMAB 013-10.

(4) NAVSUP FLCN requesting organization Code 200 submitted a Position Management Tracking Form (PMAB) # 013-10 on 11 January 2010, "Recruit two Contract Specialists, GS-1102-13 in the Contracting Department, Shore Installation Management Division. These are backfills of the positions vacated by the reassignments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to supervisory positions. Annotated on the form "this cancels PMAB 222-09, RPA 364925." PP/Series/Grade: GS-1102-13 typed, handwritten /12 behind the typed 13. PD Number MJ2184A typed, handwritten /B behind the typed A. Recruit Area of Consideration: SOI Code 200 Norfolk and NNSY offices. Functional Manager comments/recommendation: Approved by (b) (6), (b) (7)(C) ED Decision: Approved by (b) (6), (b) (7)(C) 14 Jan 2010.

(5) Replacing PMAB #222-09 with PMAB #13-10 reduced the Area of Consideration from All DoD activities nationwide to SOI Code 200 Norfolk and NNSY offices which was not in accordance with the NAVSUP letter dated 8 February 2008.

(6) Replacing PMAB #222-09 with PMAB #013-10, changed the Area of Consideration and the GS grade from GS-13 to GS-13/12, with the 13 typed on the form and the 12 handwritten. The changes enabled (b) (6), (b) (7)(C), with less than 1 year of time in grade as a GS 12, to apply and subsequently be promoted to a position that was vacated by a GS-13.

(7) According to (b) (6), (b) (7)(C) testimony, (b) (6), (b) (7)(C) and her management would have known exactly which additional individuals would have become eligible with a change of the announcement from a GS-13 to a GS-12/13.

(8) The Area of Consideration was changed from "All DoD activities nationwide" to "Code 200 Norfolk and NNSY offices" despite the testimony of (b) (6), (b) (7)(C) that management was aware of a lack of qualified candidates at the (b) (6), (b) (7)(C) FLCN Shipyard (NNSY) location and not in accordance with the NAVSUP Area of Consideration guidance.

(9) Based on a review of over 2,100 PMAB tracking forms from 2008 through 2011, (b) (6), (b) (7)(C) was the only individual selected for a GS-1102-13 position by relaxing the required qualifications and soliciting the position as a GS-1102-12/13 ladder.

(10) As the (b) (6), (b) (7)(C) of NAVSUP FLCN Code 200, (b) (6), (b) (7)(C) granted preference and or an advantage to (b) (6), (b) (7)(C) by changing the area of consideration and the grade of eligibility required for a position that was vacated by a GS-13, in violation of 5 USC 2302(b)(6).

(11) Based on the evidence, (b) (6), (b) (7)(C) aided and abetted NAVSUP FLCN Management in violating Title 5, United States Code, Section 2302(c).

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

34. Thirty-second Allegation: That (b) (6), (b) (7)(C), while the (b) (6), (b) (7)(C) NAVSUP Fleet Logistics Center Norfolk (FLCN), violated Title 5, United States Code, Section 2302(b)(7), and Title 5, United States Code, Section 3110(b), "Employment of relatives; restrictions," by appointing, employing, promoting, and advancing her (b) (6), (b) (7)(C) in or to a civilian position in the NAVSUP FLCN Code 200, the agency in which (b) (6), (b) (7)(C) served as a public official and exercised jurisdiction or control as such an official, during the time period beginning in 2007 until the her departure in 2011.
Substantiated.

a. Facts

(1) 5 USC 2302(b)(7) states that any employee who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official.

(2) According to 5 USC 3110(a)(2), "public official" means an officer, a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency.

(3) According to 5 USC 3110(a)(3), "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(4) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(5) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN from 2000 until 2011, in which capacity she had been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN Code 200.

(6) According to the testimony of (b) (6), (b) (7)(C) the requirement for summer hires is at the determination of the head of each department within NAVSUP FLCN.

(7) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for its summer hire program by word of mouth only.

(8) NAVSUP FLCN processes all summer hires as by-name requests.

(9) In keeping with such practices and according to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, his initial summer hire in Code 200 as a GS-0344-05, effective 19 May 2008, was processed as a by-name request.

(10) (b) (6), (b) (7)(C) testified that, at the time (b) (6), (b) (7)(C) was hired, she contacted (b) (6), (b) (7)(C) to inquire about the rules pertaining to employing relatives. (b) (6), (b) (7)(C) testified, "I called (b) (6), (b) (7)(C) because we had a number of employees coming onboard that were related to people and I called her to ask, "What's the policy?" and she indicated to me that as long as they were below your immediate supervisory chain, I think she said two levels, then it wasn't an issue, and these people certainly were."

(11) When asked whether she was satisfied with this guidance, she replied, "I wasn't entirely comfortable with it, but on one hand we needed people, but then I wasn't entirely comfortable with it, but then on another hand, they were submitting resumes the same as everyone else. I wasn't comfortable with it, that's why I asked."

(12) When (b) (6), (b) (7)(C) was asked about this conversation, she adamantly denied that it even occurred. She also asserted that no one ever discussed any situation in which a summer hire was selected to work in a Code headed by an (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C). When asked whether this situation would have been a source of concern, she stated, "It would have been a concern in terms of, if any action would need to have been taken, then the person would have been removed from the process. It couldn't be in the direct chain of command. If it were a couple of levels below, we might have said okay."

(13) On 15 June 2009, (b) (6), (b) (7)(C) was reappointed as a summer hire, GS-0344-05, not to exceed 30 September 2009, through an additional by-name request.

(14) On 27 September 2009, (b) (6), (b) (7)(C) was converted to an excepted appointment, from a GS-0344-05 to a YA-0343-01, under a Federal Career Intern Program (FCIP) certificate of eligibles. Three of four eligible names were relatives of current NAVSUP FLCN employees and selection for employment was made without interviews.

(15) According to the testimony of (b) (6), (b) (7)(C) his (b) (6), (b) (7)(c) provided him with (b) (6), (b) (7)(C) contact information, who was then a direct report of (b) (6), (b) (7)(C), thus advocating employment of a relative. However, (b) (6), (b) (7)(C) states that she did not recall giving (b) (6), (b) (7)(C) contact information for (b) (6), (b) (7)(C).

(16) (b) (6), (b) (7)(C), at that time, held the position of (b) (6), (b) (7)(C), in which capacity she was directly responsible for all personnel actions within Code 200 – the code into which (b) (6), (b) (7)(C) was initially and subsequently hired – and had direct knowledge of the summer hire requirements and influence over the selections.

(17) In the capacity of her position as (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) had the authority to approve awards for her department. From the time period of 17 July 2007 until 29 June 2011, her (b) (6), (b) (7)(c), (b) (6), (b) (7)(C) received 7 awards, including an Individual Cash Award, a Group Cash Award, and a Group Time-Off Award.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(7) any employee who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative of such employee if such position is in the agency in which such employee is serving as a public official or over which such employee exercises jurisdiction or control as such an official.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(3) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointment – as well as his subsequent appointments – serving as a public official, as defined in 5 USC 3110(a)(2), and was in a position to exercise jurisdiction or control as such an official when she advocated for the appointment of her (b) (6), (b) (7)(c) in and to a civilian position, in violation of 5 USC 2302(b)(7).

(4) Although (b) (6), (b) (7)(C) does not recall providing her (b) (6), (b) (7)(c) with the contact information for (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) testified that she did in fact provide that information. By placing her (b) (6), (b) (7)(c) in contact with a subordinate who could set up a summer job, (b) (6), (b) (7)(C) advocated the employment of her (b) (6), (b) (7)(c).

(5) (b) (6), (b) (7)(C) selection was made by one of (b) (6), (b) (7)(C) subordinates, who made this selection under her overall supervisory authority. (b) (6), (b) (7)(C) made no overt effort to recuse herself from the selection process. Although it appears the selection documentation may have gone directly from the Code 200 (b) (6), (b) (7)(c) to the PMAB for final approval, it did so because the (b) (6), (b) (7)(c) acted with the implied authority of the Code 200 Director. Consequently, (b) (6), (b) (7)(C) advanced and promoted the employment of her (b) (6), (b) (7)(c), (b) (6), (b) (7)(C).

(6) By nature of her position, (b) (6), (b) (7)(C) also held further influence in the financial benefits of (b) (6), (b) (7)(C) as she held final approving authority for awards in her department, to which her (b) (6), (b) (7)(c) was hired.

(7) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

35. Thirty-third Allegation: That (b) (6), (b) (7)(C), while the (b) (6), (b) (7)(C), NAVSUP Fleet Logistics Center Norfolk (FLCN), violated Title 5, United States Code, Section 2302(b)(7), and Title 5, United States Code, Section 3110(b) by employing her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) in a civilian position in the NAVSUP FLCN Code 200, the agency in which (b) (6), (b) (7)(C) served as a public official and exercised jurisdiction or control as such an official, during the time period beginning in 2007 until the her departure in 2011. **Substantiated.**

a. Facts

(1) 5 USC 2302(b)(7) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official.

(2) According to 5 USC 3110(a)(2), "public official" means an officer, a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency.

(3) According to 5 USC 3110(a)(3), "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(4) According to the testimony of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(5) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C), NAVSUP FLCN, from 2000 until 2011, in which capacity she had been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN Code 200.

(6) According to the testimony of (b) (6), (b) (7)(C) the requirement for summer hires was at the determination of the heads of each department.

(7) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(8) NAVSUP FLCN processes all summer hires as by-name requests.

(9) Human Resources Service Center - East (HRSC-E) data pull covering the period of May 2006 through July 2012 lists (b) (6), (b) (7)(C) as a summer hire Management Clerk, GS-0344-04, in Code 200, effective 12 July 2010 and not to exceed 30 September 2010.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(7), any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative of such employee if such position is in the agency in which such employee is serving as a public official or over which such employee exercises jurisdiction or control as such an official.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(3) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was serving as a public official, as defined in 5 USC 3110(a)(2), and was in a position to exercise jurisdiction or control as such an official when she employed her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C).

(4) Although (b) (6), (b) (7)(C) selection was made by one of (b) (6), (b) (7)(C) subordinates, the selection took place under (b) (6), (b) (7)(C) overall supervisory authority. (b) (6), (b) (7)(C) made no overt effort to recuse herself from the selection process. Although it appears the selection documentation may have gone directly from the Code 200 (b) (6), (b) (7)(C) to the PMAB for final approval, it did so because the (b) (6), (b) (7)(C) acted with the implied authority of the Code 200 (b) (6), (b) (7)(C). Consequently, (b) (6), (b) (7)(C) advanced and promoted the employment of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

36. Thirty-fourth Allegation: That (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(C) NAVSUP FLCN, violated Title 5, United States Code, Section 2301(b)(1), "Merit System Principles", by allowing the hiring of individuals with familial ties to NAVSUP FLCN and/or the NAVSUP community through the utilization of selective recruitment practices that prevented fair and open competition and denied equal opportunity to other potential candidates, during the period of time beginning in 2007 and ending in 2010. **Substantiated.**

a. Facts

(1) 5 USC 2301(b)(1) states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined

solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) During the time the selections of concern occurred, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN, in which capacity she had the authority to take, direct others to take, recommend, and approve personnel actions within NAVSUP FLCN Code 200 and had intimate knowledge of staffing requirements and influence over selections.

(3) According to OPM guidance, public notice is not required when filling positions under Career Intern Programs; however, agencies must follow merit principles when filling vacancies under the Career Intern Program.

(4) A Department of Navy Memorandum titled "DEPARTMENT OF THE NAVY CAREER INTERN PROGRAM", dated 25 April 2002, enclosure (1), states "Supervisors in collaboration with Human Resource Offices will identify the competencies needed in order for an individual to perform the work of the position; identify appropriate targeted recruitment sources of candidates with the appropriate background, skills, or education." It further states, "Selections will be made in accordance with 5 CFR 302 and Merit Principles."

(5) The certificates from which individuals with familial ties were selected were the product of job announcements that were not advertised by OPM and could only have been accessed through the link provided by OPM.

(6) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate hiring authority within NAVSUP FLCN.

(7) The 1102 Contract Specialist series requires candidates to have completed a four year college degree, as well as 24 business credit hours in order to be deemed eligible for appointment.

(8) (b) (6), (b) (7)(C), an individual with familial ties, was selected from a certificate that was the product of a job announcement that was not advertised by the Office of Personnel Management (OPM) and could only have been accessed through the link provided by OPM. Three eligibles were on the certificate and (b) (6), (b) (7)(C) was the only selection. (b) (6), (b) (7)(C) signed the certificate as the appointing official. (b) (6), (b) (7)(C) employment required a waiver for 18 of the 24 hours required for an 1102 position. (b) (6), (b) (7)(C) signed the waiver as the requesting management official and submitted it to NAVSUP for final approval. (b) (6), (b) (7)(C) approved the waiver as the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), Naval Supply Systems Command.

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2301(b)(1), recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) had, at the time of the application and ultimate appointment of 16 individuals with familial ties to NAVSUP FLCN and/or the NAVSUP community, the authority to take,

direct others to take, recommend, and approve personnel actions across the NAVSUP FLCN Code 200 organization.

(3) Email traffic dated 19 March 2007 between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) stated that four of the six eligibles (four individuals with familial ties) on the certificate for vacancy ID #AN-132793, dated 16 March 2007, required waivers - indicating that they did not meet the educational requirements of the positions at the time of employment.

(4) Email traffic dated 25 May 2007 between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) stated that two of the three eligibles (three individuals with familial ties) on the certificate for vacancy ID #AN-132793, dated 17 April 2007, required waivers - indicating they also did not meet the educational requirements of their positions at the time of employment. The third individual with familial ties did not meet the educational requirements and was not selected from the certificate dated 17 April 2007.

(5) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) signed the waivers submitted to NAVSUP for approval of 6 of the 16 individuals with familial ties. At the time of employment 6 of the 16 individuals with familial ties did not meet the educational requirements of a bachelors degree and 24 business credit hours.

(6) The Federal Career Intern Program was utilized to employ individuals with familial ties from March 2007 through September 2010. OPM issued 32 certificates for NAVSUP FLCN that were based on limited distribution of web links that were controlled by NAVSUP FLCN. Of the 32 certificates, 18 of the certificates were for NAVSUP FLCN Code 200 vacancies and included 32 individuals with familial ties for NAVSUP FLCN Code 200 vacancies. Of the 18 certificates for NAVSUP FLCN Code 200, 16 certificates had less than 11 eligible candidates and 10 of the certificates had less than 6 eligible candidates.

(7) The limited number of eligible candidates on certificates and the number of waivers required validates selective distribution that did not identify appropriate targeted recruitment sources of candidates with the appropriate background, skills, or education as listed in the DON memorandum.

(8) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

37. Thirty-fifth Allegation: That (b) (6), (b) (7)(C), as a (b) (6), (b) (7)(C) within the NAVSUP Fleet Logistics Center Norfolk (FLCN), allowed for the hire of 38 individuals with familial ties to NAVSUP FLCN and/or the NAVSUP community and has subsequently created the appearance of impropriety, in violation of Title 5, Code of Federal Regulations, Section 2635.101(b)(14), "Basic Obligation of Public Service". **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(14) states that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be

determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) At the time of selection for the individuals of concern, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN, in which capacity she had the authority to take, direct others to take, recommend, and approve personnel actions within NAVSUP FLCN Code 200 and had intimate knowledge of staffing requirements and influence over selections.

(3) According to the testimony of (b) (6), (b) (7)(C) the requirement for summer hires was at the determination of the heads of each department.

(4) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(5) NAVSUP FLCN processes all summer hires as by-name requests.

(6) The Federal Career Intern Program was utilized to employ individuals with familial ties from March 2007 through September 2010. OPM issued 32 certificates for NAVSUP FLCN that were based on limited distribution of web links that were controlled by NAVSUP FLCN. Of the 32 certificates, 18 of the certificates were for NAVSUP FLCN Code 200 vacancies and included 32 individuals with familial ties for NAVSUP FLCN Code 200 vacancies. Of the 18 certificates for NAVSUP FLCN Code 200, 16 certificates had less than 11 eligible candidates and 10 of the certificates had less than 6 eligible candidates.

(7) During the course of this investigation, overwhelming witness testimony was made as to the poor climate of NAVSUP FLCN and the impact the numerous perceived improprieties have had on the morale of its personnel. Personnel appear to have a lack of faith in management to "do the right thing" when the relatives of senior management are involved.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(14), employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) As a senior leader of the organization with intimate involvement in the personnel matters of the command, (b) (6), (b) (7)(C) allowed for and/or personally approved the hire of 38 individuals with familial ties to NAVSUP FLCN and/or the NAVSUP community - perpetuating the appearance of nepotism and other related improprieties, as validated by overwhelming witness testimony.

(3) (b) (6), (b) (7)(C) actions and involvement in the employment, promotion, and advancements of those individuals has created the appearance of impropriety by means of violations of civil service laws, rules, and regulations, in violation of 5 CFR 2635.101(b)(14).

(4) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

38. Thirty-sixth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(8), "Basic Obligation of Public Service" by providing preferential treatment to her (b) (6), (b) (7)(C), in her pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN) Code 200, during the time period of 2007 and 2011. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) According to the testimony of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(4) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN from 2000 until 2011, serving as a senior civilian in the NAVSUP FLCN organization.

(5) According to the testimony of (b) (6), (b) (7)(C) the requirement for summer hires was at the determination of the heads of each department.

(6) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(7) NAVSUP FLCN processes all summer hires as by-name requests.

(8) Human Resources Service Center - East (HRSC-E) data pull covering the period of May 2006 through July 2012 lists (b) (6), (b) (7)(C) as a summer hire Office Clerk, GS-0303-03, in the Business Support Department, effective 11 July 2007.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) As the (b) (6), (b) (7)(C) of NAVSUP FLCN Code 200, a senior leader in the NAVSUP FLCN organization, (b) (6), (b) (7)(C), at the time of (b) (6), (b) (7)(C) initial appointment, held a position of influence within NAVSUP FLCN.

(3) Because NAVSUP FLCN's summer hire program is advertised by word-of-mouth only, it appears that (b) (6), (b) (7)(C) would not have learned of the employment opportunity had her (b) (6), (b) (7)(C) not been employed by the organization and directly afforded her that information, providing (b) (6), (b) (7)(C) an advantage over other applicants or potential candidates, in violation of 5 CFR 2635.101(b)(8).

(4) Although (b) (6), (b) (7)(C) selection was made by one of (b) (6), (b) (7)(C) subordinates, the selection took place under (b) (6), (b) (7)(C) overall supervisory authority. (b) (6), (b) (7)(C) made no overt effort to recuse herself from the selection process. Although it appears the selection documentation may have gone directly from the Code 200 (b) (6), (b) (7)(C) to the PMAB for final approval, it

did so because the (b) (6), (b) (7) (c) acted with the implied authority of the Code 200 (b) (6), (b) (7) (c). Consequently, (b) (6), (b) (7) (C) advanced and promoted the employment of her (b) (6), (b) (7) (c), (b) (6), (b) (7) (C).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

39. Thirty-seventh Allegation: That (b) (6), (b) (7) (C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(8), "Basic Obligation of Public Service", by providing preferential treatment to her (b) (6), (b) (7) (c), (b) (6), (b) (7) (C) in his pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN) Code 200, during the time period of 2007 and 2011. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) According to the testimonies of (b) (6), (b) (7) (C) and (b) (6), (b) (7) (C) as well as (b) (6), (b) (7) (C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7) (C) is the (b) (6), (b) (7) (c) of (b) (6), (b) (7) (C).

(3) (b) (6), (b) (7) (C) held the position of (b) (6), (b) (7) (C), NAVSUP FLCN from 2000 until 2011, in which capacity she had been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN Code 200.

(4) According to the testimony of (b) (6), (b) (7) (C) the requirement for summer hires was at the determination of the heads of each department.

(5) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(6) NAVSUP FLCN processes all summer hires as by-name requests.

(7) In keeping with such practices and according to (b) (6), (b) (7) (C) Standard Form - 50 (SF-50), Notification of Personnel Action, his initial summer hire as a GS-0344-05, effective 19 May 2008, was processed as a by-name request.

(8) On 15 June 2009, (b) (6), (b) (7) (C) was reappointed as a summer hire, GS-0344-05, not to exceed 30 September 2009, through an additional by-name request.

(9) On 27 September 2009, (b) (6), (b) (7) (C) was converted to an excepted appointment, from a GS-0344-05 to a YA-0343-01, under a Federal Career Intern Program (FCIP) certificate of eligibles. Three of four eligibles listed on the certificate were relatives of current NAVSUP FLCN employees and selection for employment was made without interviews.

(10) According to the testimony of (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) provided him with (b) (6), (b) (7)(C) contact information, a direct report of (b) (6), (b) (7)(C) , thus advocating employment of her (b) (6), (b) (7)(C) .

(11) (b) (6), (b) (7)(C) at that time, held the position of (b) (6), (b) (7)(C) , in which capacity she was directly responsible for all personnel actions within Code 200 – the code into which (b) (6), (b) (7)(C) was initially and subsequently hired – and had direct knowledge of the summer hire requirements and influence over the selections.

(12) (b) (6), (b) (7)(C) had the authority to approve awards for her department. Her (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) received seven awards including an Individual Cash Award, a Group Cash Award, and a Group Time-Off Award in the period from 17 July 2007 through 29 June 2011.

(13) In her statement to IOs, (b) (6), (b) (7)(C) testified to having sought HR advice from (b) (6), (b) (7)(C) upon the hire of her (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) , to which she was advised that, "as long as they were below my immediate supervisory chain, I think she said two levels, then it wasn't an issue." (b) (6), (b) (7)(C) adamantly denied such conversation.

(14) When asked whether (b) (6), (b) (7)(C) advice seemed right to her, (b) (6), (b) (7)(C) explained, "I wasn't entirely comfortable with it, but on one hand we needed people, but then I wasn't entirely comfortable with it, but then on another hand, they were submitting resumes the same as everyone else. I wasn't comfortable with it, that's why I asked."

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) As the (b) (6), (b) (7)(C) , (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) initial appointment – as well as his subsequent appointments and full-time employment – serving as a public official and held a position of influence within NAVSUP FLCN Code 200.

(3) Because NAVSUP FLCN's summer hire program is advertised by word-of-mouth only, (b) (6), (b) (7)(C) would not have learned of the employment opportunity had his (b) (6), (b) (7)(C) not been employed by the organization and directly afforded him that information.

(4) By nature of the actions taken by (b) (6), (b) (7)(C) when referring (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) for employment, in correlation to the position she held within the organization, it appears that (b) (6), (b) (7)(C) indirectly advocated for her (b) (6), (b) (7)(C) appointment to a civilian position at NAVSUP FLCN; therefore, providing (b) (6), (b) (7)(C) an advantage over other applicants or potential candidates.

(5) Although (b) (6), (b) (7)(C) selection was made by one of (b) (6), (b) (7)(C) subordinates, the selection took place under (b) (6), (b) (7)(C) overall supervisory authority. (b) (6), (b) (7)(C) made no overt effort to recuse herself from the selection process. Although it appears the selection documentation may have gone directly from the Code 200 (b) (6), (b) (7)(C) to the PMAB for final approval, it did so because the (b) (6), (b) (7)(C) acted with the implied authority of the Code 200 (b) (6), (b) (7)(C) . Consequently, (b) (6), (b) (7)(C) advanced and promoted the employment of her (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) .

(6) Following his initial hire, (b) (6), (b) (7)(C) follow on appointment and full-time employment were built upon the foundation of a student employment that had been acquired by means of preferential treatment from his (b) (6), (b) (7)(c), (b) (6), (b) (7)(C)

(7) By nature of her position, (b) (6), (b) (7)(C) also held further influence in the financial benefits of (b) (6), (b) (7)(C) as she held final approving authority for awards in her department, to which her (b) (6), (b) (7)(c) was hired.

(8) Despite contradicting statements as to whether (b) (6), (b) (7)(C) sought HR guidance in the hiring of her (b) (6), (b) (7)(c), (b) (6), (b) (7)(C) own statement indicates that she was not entirely comfortable with the advice she received, yet there is no indication that she sought further clarification or legal opinion on the matter.

(9) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

40. Thirty-eighth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(8), "Basic Obligation of Public Service", by providing preferential treatment to her (b) (6), (b) (7)(c), (b) (6), (b) (7)(C), in his pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN) Code 200, during the time period of 2007 and 2011. **Substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) 5 CFR 2635.101(b)(14) states that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(3) According to the testimony of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C)

(4) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN from 2000 until 2011, in which capacity she had been vested the authority to appoint, employ, promote, or advance individuals, and to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at NAVSUP FLCN Code 200.

(5) According to the testimony of (b) (6), (b) (7)(C) the requirement for summer hires was at the determination of the heads of each department.

(6) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(7) NAVSUP FLCN processes all summer hires as by-name requests.

(8) Human Resources Service Center - East (HRSC-E) data pull covering the period of May 2006 through July 2012 lists (b) (6), (b) (7)(C) as a summer hire Management Clerk, GS-0344-04, in Code 200, effective 12 July 2010 and not to exceed 30 September 2010.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) As the (b) (6), (b) (7)(C) of NAVSUP FLCN Code 200, (b) (6), (b) (7)(C) at the time of (b) (6), (b) (7)(C) initial appointment - as well as his subsequent appointments and full-time employment - held a position of influence within NAVSUP FLCN Code 200.

(3) Because NAVSUP FLCN's summer hire program is advertised by word-of-mouth only, it appears that (b) (6), (b) (7)(C) would not have learned of the employment opportunity had his (b) (6), (b) (7)(C) not been employed by the organization and directly afforded him that information, providing (b) (6), (b) (7)(C) an advantage over other applicants or potential candidates, in violation of 5 CFR 2635.101(b)(8).

(4) Although (b) (6), (b) (7)(C) selection was made by one of (b) (6), (b) (7)(C) subordinates, the selection took place under (b) (6), (b) (7)(C) overall supervisory authority. (b) (6), (b) (7)(C) made no overt effort to recuse herself from the selection process. Although it appears the selection documentation may have gone directly from the Code 200 (b) (6), (b) (7)(C) to the PMAB for final approval, it did so because the (b) (6), (b) (7)(C) acted with the implied authority of the Code 200 (b) (6), (b) (7)(C). Consequently, (b) (6), (b) (7)(C) advanced and promoted the employment of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

41. Thirty-ninth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2302(c) by failing to prevent prohibited personnel practices and ensure NAVSUP Fleet Logistics Center Norfolk's (FLCN) Code 200 compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management during the time period of Mar 2007 until the October 2011. **Substantiated.**

a. Facts

(1) 5 USC 2302(c) states that the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title. Any individual to whom the head of an agency delegates

authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(2) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN, from June 2000 until the October 2011, in which capacity she was an individual to whom the head of an agency delegated authority for personnel management, or for any aspect thereof.

(3) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. As the senior civilian in the NAVSUP FLCN Code 200 department, (b) (6), (b) (7)(C) was responsible for all personnel actions for NAVSUP FLCN Code 200 submitted to the PMAB.

(4) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(C) NAVSUP FLCN, was responsible for all personnel actions including the civilian employment process, promotions, and awards within NAVSUP FLCN Code 200.

(5) Under (b) (6), (b) (7)(C) leadership, the following Prohibited Personnel Practices and other civil service laws, rules, and regulations were found to have been violated:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

(6) During the course of this investigation, the following civil service laws, rules, and regulations were found to have been violated by (b) (6), (b) (7)(C) in particular:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (e) 5 CFR 2635.101(b)(14)
- (f) 5 CFR 213.3202(a)(7)(2007)

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(c), the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(2) As the (b) (6), (b) (7)(C) of NAVSUP FLCN, (b) (6), (b) (7)(C) was an individual whom the head of the agency delegated authority for personnel management and was, therefore, responsible for the prevention of prohibited personnel practices and for the compliance with and enforcement of applicable civil service laws, rules, and regulations.

(3) As the (b) (6), (b) (7)(C) - the ultimate approving authority for all personnel actions within NAVSUP FLCN Code 200 - (b) (6), (b) (7)(C) had direct influence over and intimate involvement with the personnel (b) (6), (b) (7)(C) matters of the department. In such a capacity, (b) (6), (b) (7)(C) would have been aware of the hiring and personnel practices taking place within her department.

(4) On various occasions throughout her tenure as the (b) (6), (b) (7)(C) NAVSUP FLCN, (b) (6), (b) (7)(C) not only failed to prevent prohibited personnel practices and violations of applicable civil service laws, rules, and regulations but was also found to have personally made such violations, in violation of 5 USC 2302(c).

(5) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

42. Fortieth Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2301(b)(1), "Merit System Principles", through efforts to target specific individuals for employment with NAVSUP Fleet Logistics Center Norfolk (FLCN) with the utilization of selective recruitment practices that prevented fair and open competition and denied equal opportunity to other potential candidates, resulting in selections not based solely on relative ability, knowledge, and skills, during the period of time beginning in December 2008 until present. **Substantiated.**

a. Facts

(1) 5 USC 2301(b)(1) states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C), since December 2011, in which capacity she has the authority to take, direct others to take, recommend, and approve personnel actions within Code 200 NAVSUP FLCN and has intimate knowledge of staffing requirements and influence over selections within her department.

(3) Prior to (b) (6), (b) (7)(C) current position, she held the position of (b) (6), (b) (7)(C), in which capacity she was also delegated the authority for the personnel management of Code 200, with which she was heavily involved and held significant influence.

(4) In regard to that position, (b) (6), (b) (7)(C) explained, "I did the finances, the hiring - the business side of it. So, also, the intern program fell under me."

(5) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for its program on its own.

(6) In regard to the methods used to recruit for FCIP positions, (b) (6), (b) (7)(C) testified, "There was an announcement open and whether we just got resumes coming in. We'd go to local colleges and recruit, tell people to look for an announcement, tell people that the job was being announced. I think we had a direct link and we'd send flyers out to local universities."

(7) As to whether the announcement was made public, (b) (6), (b) (7)(C) stated, "It's open to a degree, but it's not consistently managed. We just throw it out there and then we look to see what we get back."

(8) After a review of copious amounts of personnel documentation from NAVSUP FLCN, the IOs were unable to find a substantial correlation between a certain university to which FCIP recruitments could have taken place and those individuals that were ultimately selected.

(9) Under (b) (6), (b) (7)(C) leadership, at least 27 individuals with familial ties to the NAVSUP FLCN organization and/or the NAVSUP community were appointed, promoted, and/or advanced within NAVSUP FLCN Code 200 - often in and to FCIP positions.

(10) (b) (6), (b) (7)(C) personally approved documents for the appointment promotion, reassignment and/or advancement within NAVSUP FLCN Code 200, of 27 of those 27 individuals. Of the 27 individuals with familial ties 13 were family members listed in the original complaint.

(11) The certificates from which at least 7 of those 27 individuals were selected were the product of job announcements that were not advertised by the Office of Personnel Management (OPM) and could only have been accessed through a link provided by OPM that would grant access to the application.

(12) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate management official within NAVSUP FLCN.

(13) As to the distribution of that link, (b) (6), (b) (7)(C) testified that she did in fact have possession of those links and that she repeatedly participated in the distribution of the links to private individuals.

(14) (b) (6), (b) (7)(C) testified that she distributed those links to individuals of whom she was often made aware through the receipt of their resumes, stating, "We pretty much keep a pool of resumes. When I was in my job, and even now, I have a folder of resumes. When you are in a position like mine, people come out

of the woodwork; they just want to give you resumes. We just have a big stack. So sometimes that's how we'd get resumes."

(15) When it comes to their summer hire program, NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit by word of mouth only. NAVSUP FLCN then selects candidates received through that practice without interview and processes them as by-name requests.

(16) To that regard, (b) (6), (b) (7)(C) testified, "Resumes just come in and we do direct by name requests, because they're just temporary; they're not becoming a part of civil service."

(17) (b) (6), (b) (7)(C) testified that it is first determined how much help the department will need for the summer then they proceed with hiring solely based upon the existing supply of resumes of which she is in possession, explaining, "We get resumes and, depending on how many we need, we fill. So we pretty much go out and ask folks what work they need done in the summer so we can decide how many we need and then we fill behind."

(18) As to the recruitment effort made in the case of summer hires, (b) (6), (b) (7)(C) stated, "There's no solicitation on my part. Last year, HRSCE sent out a (b) (7) job announcement but I already had this stack (of resumes). HRSCE's is a pool we could use but we'd probably have to start earlier in the process."

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2301(b)(1), recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) As the (b) (6), (b) (7)(C), as well as in her previous role of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) has had the authority to take, direct others to take, recommend, and approve personnel actions within Code 200 NAVSUP FLCN and has intimate knowledge of staffing requirements and influence over selections within her department.

(3) Contrary to (b) (6), (b) (7)(C) statements that there were ongoing efforts to recruit for FCIP positions at specific colleges and universities, IOs were unable to find a significant correlation between certain universities to which such a recruitment could have taken place and the alma maters of those individuals whom were ultimately selected. In addition, the low volume of candidates produced by the FCIP announcements between 2009 and 2010 is not consistent with a wide distribution such as the posting of a link to a public forum like a university career website. Rather, the unusually low numbers of candidates produced suggests targeted recruitment and selective distribution of the link for application.

(4) The practices that (b) (6), (b) (7)(C) employed in her selective distribution of the link for application in the case of the unadvertised FCIP positions, often to individuals with familial ties to the NAVSUP FLCN organization and/or the greater NAVSUP community, between November 2008 and present, resulted in a definition of scope that obstructed competition. This fact is evidenced by the difference in the number of candidates yielded by the two referenced Certificate of Eligibles and indicates that fair and open competition did not take place when

those practices were employed. Recruitment for the positions to which those individuals were selected, therefore, was not from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society.

(5) It should be noted that, although student hires are temporary, as (b) (6), (b) (7)(C) stated in her interview with the IOs, during the course of the investigation, such appointments were found to have been used by NAVSUP FLCN as the basis for justification of eligibility for future employment and, in some cases, appointment at a higher grade-level than that at which a candidate initially qualified.

(6) As a result of (b) (6), (b) (7)(C) obstruction of competition in favor of the identified individuals, their selections and subsequent advancements were not determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition to assure that all receive equal opportunity, in violation of 5 USC 2301(b)(1).

(7) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

43. Forty-first Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2303(c) by failing to prevent prohibited personnel practices and ensure NAVSUP Fleet Logistics Center Norfolk's (FLCN) compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management during the time period of November 2008 until the present. **Substantiated.**

a. Facts

(1) 5 USC 2302(c) states that the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C), from December 2011 until the present, in which capacity she has been delegated the authority for personnel management.

(3) Prior to holding the position of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was in the position of (b) (6), (b) (7)(C), in which capacity she was also delegated the authority for the personnel management of Code 200, for which she was heavily involved and held significant influence.

(4) In both positions, (b) (6), (b) (7)(C) held a direct responsibility for all personnel actions within the Code 200 department and has had intimate knowledge of personnel requirements and influence over all aspects of personnel management.

(5) Under (b) (6), (b) (7)(C) leadership, the following Prohibited Personnel Practices and other civil service laws, rules, and regulations were found to have been violated:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

(6) During the course of this investigation, the following civil service laws, rules, and regulations were found to have been violated by (b) (6), (b) (7)(C) in particular:

- (a) 5 USC 3110(b)
- (b) 5 USC 2301(b)(1)
- (c) 5 USC 2302(b)(6)
- (d) 5 USC 2302(b)(7)
- (e) 5 CFR 2635.101(b)(8)
- (f) 5 CFR 2635.101(b)(14)
- (g) 5 CFR 213.3202(a)(7)(2007)

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(c), the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management.

(2) As the former (b) (6), (b) (7)(C) and the current (b) (6), (b) (7)(C) NAVSUP FLCN, (b) (6), (b) (7)(C) has been delegated authority for personnel management and, therefore, responsible for the prevention of prohibited personnel practices and for the compliance with and enforcement of applicable civil service laws, rules, and regulations.

(3) On various occasions throughout her tenure as (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C), NAVSUP FLCN, (b) (6), (b) (7)(C) not only failed to prevent prohibited personnel practices and violations of applicable civil service laws, rules, and regulations, but was personally responsible for the violation of at least 7 of those laws, rules, and regulations, in violation of 5 USC 2302(c).

(4) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

44. Forty-second Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2303(b)(6) by defining the scope or manner of competition for positions within the NAVSUP Fleet Logistics Center Norfolk (FLCN) for the purpose of improving the prospects of particular persons for employment during the period of time beginning in or around November 2008 until present.
Substantiated.

a. Facts

(1) 5 USC 2302(b)(6) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C), since December 2011, in which capacity she has the authority to take, direct others to take, recommend, and approve personnel actions within Code 200 NAVSUP FLCN and has intimate knowledge of staffing requirements and influence over selections within her department.

(3) Prior to (b) (6), (b) (7)(C) current position, she held the position of (b) (6), (b) (7)(C), in which capacity she was also delegated the authority for the personnel management of Code 200, with which she was heavily involved and held significant influence.

(4) In regard to that position, (b) (6), (b) (7)(C) explained, "I did the finances, the hiring - the business side of it. So, also, the intern program fell under me."

(5) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for its program on its own.

(6) In regard to the methods used to recruit for FCIP positions, (b) (6), (b) (7)(C) testified, "There was an announcement open and whether we just got resumes coming in. We'd go to local colleges and recruit, tell people to look for an announcement, tell people that the job was being announced. I think we had a direct link and we'd send flyers out to local universities."

(7) As to whether the announcement was made public, (b) (6), (b) (7)(C) stated, "It's open to a degree, but it's not consistently managed. We just throw it out there and then we look to see what we get back."

(8) After a review of copious amounts of personnel documentation from NAVSUP FLCN, the IOs were unable to find a substantial correlation between a certain university to which FCIP recruitments could have taken place and those individuals that were ultimately selected.

(9) Under (b) (6), (b) (7)(C) leadership, at least 27 individuals with familial ties to the NAVSUP FLCN organization and/or the NAVSUP community were appointed, promoted, and/or advanced within NAVSUP FLCN Code 200 - often in and to FCIP positions

(10) (b) (6), (b) (7)(C) personally approved documents for the appointment promotion, reassignment and/or advancement within NAVSUP FLCN Code 200, of 27 of those 27 individuals. Of the 27 individuals with familial ties 13 were family members listed in the original complaint.

(11) The certificates from which at least 7 of those 27 individuals were selected were the product of job announcements that were not advertised by the Office of Personnel Management (OPM) and could only have been accessed through a link provided by OPM that would grant access to the application.

(12) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate management official within NAVSUP FLCN.

(13) As to the distribution of that link, (b) (6), (b) (7)(C) testified that she did in fact have possession of those links and that she repeatedly participated in the distribution of the links to private individuals.

(14) (b) (6), (b) (7)(C) testified that she distributed those links to individuals of whom she was often made aware through the receipt of their resumes, stating, "We pretty much keep a pool of resumes. When I was in my job, and even now, I have a folder of resumes. When you are in a position like mine, people come out of the woodwork; they just want to give you resumes. We just have a big stack. So sometimes that's how we'd get resumes."

(15) Certificate of Eligibles #AN-07-DPG-01434S0, dated 17 January 2007, for a GS-1102-07, was advertised by OPM and produced 65 candidates, of which 12 were veterans.

(16) Approximately three months later, on 16 March 2007, the Certificate of Eligibles #AN-132793 for the same job series, which NAVSUP FLCN chose not to advertise, produced just six candidates, of which only one was a veteran. Additionally, four of the six candidates had familial ties to employees of the NAVSUP FLCN organization and/or the NAVSUP community, with an additional candidate whom had a known association with an employee in the servicing HRO.

(17) When it comes to their summer hire program, NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit by word of mouth only. NAVSUP FLCN then selects candidates received through that practice without interview and processes them as by-name requests.

(18) To that regard, (b) (6), (b) (7)(C) testified, "Resumes just come in and we do direct by name requests, because they're just temporary; they're not becoming a part of civil service."

(19) (b) (6), (b) (7)(C) testified that it is first determined how much help the department will need for the summer then they proceed with hiring solely based upon the existing supply of resumes of which she is in possession, explaining, "We get resumes and, depending on how many we need, we fill. So we pretty much

go out and ask folks what work they need done in the summer so we can decide how many we need and then we fill behind."

(20) As to the recruitment effort made in the case of summer hires, (b) (6), (b) (7)(C) stated, "There's no solicitation on my part. Last year, HRSCE sent out a (b) (6), (b) (7) job announcement but I already had this stack (of resumes). HRSCE's is a pool we could use but we'd probably have to start earlier in the process."

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b)(6), any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) As the (b) (6), (b) (7)(C), as well as in her previous role of (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) has had the authority to take, direct others to take, recommend, and approve personnel actions within Code 200 NAVSUP FLCN and has intimate knowledge of staffing requirements and influence over selections within her department.

(3) Contrary to (b) (6), (b) (7)(C) statements that there were ongoing efforts to recruit for FCIP positions at specific colleges and universities, IOs were unable to find a significant correlation between certain universities to which such a recruitment could have taken place and the alma maters of those individuals whom were ultimately selected. In addition, the low volume of candidates produced by the FCIP announcements between 2009 and 2010 is not consistent with a wide distribution such as the posting of a link to a public forum like a university career website. Rather, the unusually low numbers of candidates produced suggests targeted recruitment and selective distribution of the link for application.

(4) The practices that (b) (6), (b) (7)(C) employed in her selective distribution of the link for application in the case of the unadvertised FCIP positions, often to individuals with familial ties to the NAVSUP FLCN organization and/or the greater NAVSUP community, between January 2009 and September 2010, resulted in a definition of scope that obstructed competition - as evidenced by the difference in the number of candidates yielded by the two referenced Certificate of Eligibles - therefore, granting preference and advantage not authorized by law, rule, or regulation to those applicants for employment with the purpose of improving their prospects for employment, in violation of 5 USC 2302(b)(6).

(5) Following their initial hires, the advancements of those individuals, such as their promotions within their FCIP career ladder positions, were built upon the foundation of an employment that had been acquired by means of preferences and advantages granted to them by (b) (6), (b) (7)(C).

(6) It should be noted that, although student hires are temporary, as (b) (6), (b) (7)(C) stated in her interview with the IOs, during the course of the investigation, such appointments were found to have been used by NAVSUP FLCN as the basis for justification of eligibility for future employment and, in some cases, appointment at a higher grade-level than that at which a candidate initially qualified.

(7) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

45. Forty-third Allegation: That (b) (6), (b) (7)(C) violated Title 5, United States Code, Section 2302(b)(6) by granting preference or advantage not authorized by law, rule, or regulation to (b) (6), (b) (7)(C) an applicant for promotion with the NAVSUP Fleet Logistics Center Norfolk (FLCN), for the purpose of improving his prospects for employment during the period of time beginning in or around November 2008 until the present. **Substantiated.**

a. Facts

(1) 5 USC 2302(b)(6) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #142-09, on 27 March 2009 stating, "Request to hire GS-1102-12 Intern graduating on 23 May 2009. Upon approval request HRO process action to hire (b) (6), (b) (7)(C). The form was approved by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on 30 March 2009.

(3) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, he was promoted to a GS-1102-12, effective 24 May 2009.

(4) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #222-09, on 11 May 2009 stating, "Recruit two Contract Specialists, GS-1102-13 in the Contracting Department, Shore Installation Management Division. These are backfills of the positions vacated by the reassignments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to supervisory positions." The Recruit Area of Consideration was identified as "All DoD activities nationwide." The request was approved by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on 14 May 2009. It was annotated on 2 February 2010 that the request was cancelled "per telecon with (b) (6), (b) (7)(C) replaced by PMAB 013-10."

(5) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #013-10, on 11 January 2010 stating, "Recruit two Contract Specialists, GS-1102-13 in the Contracting Department, Shore Installation Management Division. These are backfills of the positions vacated by the reassignments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to supervisory positions." It was annotated on the form, "This cancels PMAB 222-09, RPA 364925." On the line for PP/Series/Grade, GS-1102-13 was typed and then "/12" was handwritten after the 13. The PD Number was MJ2184A typed, and then again, a handwritten addition of "/B" to the end of the PD number was made. The Recruit Area of Consideration indicated "SOI Code 200 Norfolk and NNSY offices" and the form was approved by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on 14 Jan 2010.

(6) PMAB Tracking Forms #001 to #648 from 2008, included five tracking forms for GS-1102-13 position positions, and just one for a GS-1102-12/13 position which was listed as "OBE".

(7) PMAB Tracking Forms #001 to #601 from 2009, included six tracking forms for GS-1102-13 positions, but zero for GS-1102-12/13 positions.

(8) PMAB Tracking Forms #001 to #489 from 2010, included six tracking forms for GS-1102-13 positions, and three for GS-1102-12/13 positions (one listed as OBE, the other two associated with the selection of (b) (6), (b) (7)(C) with the number 12 handwritten on the Grade line of the form).

(9) PMAB Tracking Forms #001 to #419 from 2011, included seven tracking forms for GS-1102-13 positions, but zero for GS-1102-12/13 positions.

(10) In an email dated Tuesday, 9 February 2010, at 5:28PM from (b) (6), (b) (7)(C) FLCN Code 200, to (b) (6), (b) (7)(C) HRO, with the subject "FW: SOLICITATION OF INTEREST GS-1102-12/13", stated, "(b) (6), (b) (7)(C) - FYI this was sent out today. The PMAB actions are 013-10 (PD 2184A&B and 2182 A&B) and 014-10(7093A&B). Please clear the Stopper List. R, (b) (6), (b) (7)(C)." ."

(11) In an attachment to the above referenced email, the Area of Consideration was listed as "Permanent Employees in the FLCN, Code 200 Norfolk and NNSY sites."

(12) A Management Identification of Candidates Documentation Sheet, for a Contract Specialist, GS-1102-13, listed selectees as (b) (6), (b) (7)(C) (PD 7093A/B PMAB 014-10) and (b) (6), (b) (7)(C) (PD 218A/B PMAB 013-10) with a Date of Selection of 29 March 2010. The Area of Consideration was listed as "Eligible FLC Norfolk Employees in the Hampton Roads commuting area." The names of potential candidates considered for promotion included (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C). The Selecting Official identified was (b) (6), (b) (7)(C), who signed the selections on 28 March 2010. The document was also signed by (b) (6), (b) (7)(C) on 30 March 2010. On the document, the last paragraph states, "Although there are additional positions at this level, the team did not feel the remaining candidates have the necessary skills required for this position."

(13) Four of the six applicants met the one-year time in grade as a GS-12 requirement to be eligible for the GS-13. Two of the six applicants did not have the one-year time in grade as a GS-12 required to be eligible for the GS-13; (b) (6), (b) (7)(C) was one of those two.

(14) A NAVSUP letter, dated 08 February 2008, from Vice Commander, Naval Supply Systems Command, subj: Area of Consideration (AOC) for Enterprise Recruitment Actions, states "The minimum AOC and recruitment source for GS-11, GS-12, GS-13 and equivalent NSPS Pay Band 2 vacancies will be current Department of Navy employees."

(15) As to the decision to make the announcement a GS-12/13, (b) (6), (b) (7)(C) testified, "Because of the position, it wasn't supervisory and we didn't have a lot of candidates for the 13 position. So, to make it more competitive as a 12/13 - and that increased the pool. It just gives you more people in the pool. I knew how many people there were because of how many people had been a 12 for a year. Right now, my pool is very large. At that time, I had a lot of interns, not a lot of senior 12s. That's known. We have a spreadsheet that shows that." She further confirmed that she would have known by looking at that spreadsheet

which additional individuals would have become eligible to compete for the position by making it a GS-12/13 vice a straight GS-13.

(16) To that regard, (b) (6), (b) (7)(C) also testified, At the time, I didn't have the workforce at the NNSY at that time either and I try to, whenever possible, promote from within. It was just a management decision. I had two positions open at that time so I just wanted a bigger pool. Rarely do I have two positions at that independent level open and I just happened to have two open at the same time."

b. Analysis/Discussion/Conclusion

(1) According to 5 USC 2302(b) (6), any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(2) NAVSUP FLCN Code 200 submitted a Position Management Tracking Form (PMAB), #222-09, on 11 May 2009, "Recruit two Contract Specialists, GS-1102-13 in the Contracting Department, Shore Installation Management Division. These are backfills of the positions vacated by the reassignments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to supervisory positions." Recruit Area of Consideration: All DoD activities nationwide. Functional Manager comments/recommendation: Approved by (b) (6), (b) (7)(C) ED Decision: Approved by (b) (6), (b) (7)(C) 14 May 2009. Annotated on 2 February 2010 - cancelled per telecon with (b) (6), replaced by PMAB 013-10.

(3) NAVSUP FLCN requesting organization Code 200 submitted a Position Management Tracking Form (PMAB) # 013-10 on 11 January 2010, "Recruit two Contract Specialists, GS-1102-13 in the Contracting Department, Shore Installation Management Division. These are backfills of the positions vacated by the reassignments of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to supervisory positions. Annotated on the form "this cancels PMAB 222-09, RPA 364925." PP/Series/Grade: GS-1102-13 typed, handwritten /12 behind the typed 13. PD Number MJ2184A typed, handwritten /B behind the typed A. Recruit Area of Consideration: SOI Code 200 Norfolk and NNSY offices. Functional Manager comments/recommendation: Approved by (b) (6), (b) (7)(C) ED Decision: Approved by (b) (6), (b) (7)(C) 14 Jan 2010.

(4) Replacing PMAB #222-09 with PMAB #13-10 reduced the Area of Consideration from All DoD activities nationwide to SOI Code 200 Norfolk and NNSY offices which was not in accordance with the NAVSUP letter dated 8 February 2008.

(5) Replacing PMAB #222-09 with PMAB #013-10, changed the Area of Consideration and the GS grade from GS-13 to GS-13/12, with the 13 typed on the form and the 12 handwritten. The changes enabled (b) (6), (b) (7)(C) with less than 1 year of time in grade as a GS 12, to apply and subsequently be promoted to a position that was vacated by a GS-13.

(6) According to (b) (6), (b) (7)(C) testimony, she would have known exactly which additional individuals would have become eligible with a change of the announcement from a GS-13 to a GS-12/13.

(7) The Area of Consideration was changed from "All DoD activities nationwide" to "Code 200 Norfolk and NNSY offices" despite the testimony of (b) (6),

(b) (6), (b) (7)(C) that management was aware of a lack of qualified candidates at the FLCN Shipyard (NNSY) location and not in accordance with the NAVSUP Area of Consideration guidance.

(8) Based on a review of over 2,100 PMAB tracking forms from 2008 through 2011, (b) (6), (b) (7)(C) was the only individual selected for a GS-1102-13 targeted position solicited as GS-1102-12/13.

(9) As the (b) (6), (b) (7)(C) of NAVSUP FLCN Code 200, (b) (6), (b) (7)(C) granted preference and or an advantage to (b) (6), (b) (7)(C) by changing the area of consideration and the grade of eligibility required for a position that was vacated by a GS-13.

(10) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

46. Forty-fourth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(14), "Basic Obligation of Public Service", through hiring and management practices within Code 200, NAVSUP Fleet Logistics Center Norfolk (FLCN), that has created and perpetuated an appearance of impropriety, during the time period of November 2008 and present.
Substantiated.

a. Facts

(1) 5 CFR 2635.101(b)(14) states that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C), since December 2011, in which capacity she has the authority to take, direct others to take, recommend, and approve personnel actions within Code 200 NAVSUP FLCN and has intimate knowledge of staffing requirements and influence over selections within her department.

(3) Prior to (b) (6), (b) (7)(C) current position, she held the position of (b) (6), (b) (7)(C), in which capacity she was also delegated the authority for the personnel management of Code 200, with which she was heavily involved and held significant influence.

(4) In regard to that position, (b) (6), (b) (7)(C) explained, "I did the finances, the hiring - the business side of it. So, also, the intern program fell under me."

(5) The process by which NAVSUP FLCN recruited for its FCIP interns historically bypassed the advertisement services offered by OPM and chose to advertise and recruit for its program on its own.

(6) In regard to the methods used to recruit for FCIP positions, (b) (6), (b) (7) testified, "There was an announcement open and whether we just got resumes

coming in. We'd go to local colleges and recruit, tell people to look for an announcement, tell people that the job was being announced. I think we had a direct link and we'd send flyers out to local universities."

(7) As to whether the announcement was made public, (b) (6), (b) (7)(C) stated, "It's open to a degree, but it's not consistently managed. We just throw it out there and then we look to see what we get back."

(8) After a review of copious amounts of personnel documentation from NAVSUP FLCN, the IOs were unable to find a substantial correlation between a certain university to which FCIP recruitments could have taken place and those individuals that were ultimately selected.

(9) Under (b) (6), (b) (7)(C) leadership, at least 27 individuals with familial ties to the NAVSUP FLCN organization and/or the NAVSUP community were appointed, promoted, and/or advanced within NAVSUP FLCN Code 200 - often in and to FCIP positions.

(10) (b) (6), (b) (7)(C) personally approved documents for the appointment promotion, reassignment and/or advancement within NAVSUP FLCN Code 200, of 27 of those 27 individuals. Of the 27 individuals with familial ties 13 were family members listed in the original complaint.

(11) The certificates from which at least 7 of those 27 individuals were selected were the product of job announcements that were not advertised by the Office of Personnel Management (OPM) and could only have been accessed through a link provided by OPM that would grant access to the application.

(12) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C), testified that the chain of custody for such a link would have been as follows: OPM would provide the link to HRO Norfolk - FLCN Satellite Office; HRO personnel would then provide that link to the Selecting Official or appropriate management official within NAVSUP FLCN.

(13) As to the distribution of that link, (b) (6), (b) (7)(C) testified that she did in fact have possession of those links and that she repeatedly participated in the distribution of the links to private individuals.

(14) (b) (6), (b) (7)(C) testified that she distributed those links to individuals of whom she was often made aware through the receipt of their resumes, stating, "We pretty much keep a pool of resumes. When I was in my job, and even now, I have a folder of resumes. When you are in a position like mine, people come out of the woodwork; they just want to give you resumes. We just have a big stack. So sometimes that's how we'd get resumes."

(15) When it comes to their summer hire program, NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit by word of mouth only. NAVSUP FLCN then selects candidates received through that practice without interview and processes them as by-name requests.

(16) To that regard, (b) (6), (b) (7)(C) testified, "Resumes just come in and we do direct by name requests, because they're just temporary; they're not becoming a part of civil service."

(17) (b) (6), (b) (7)(C) testified that it is first determined how much help the department will need for the summer then they proceed with hiring solely based

upon the existing supply of resumes of which she is in possession, explaining, "We get resumes and, depending on how many we need, we fill. So we pretty much go out and ask folks what work they need done in the summer so we can decide how many we need and then we fill behind."

(18) As to the recruitment effort made in the case of summer hires, (b) (6), (b) (7)(C) stated, "There's no solicitation on my part. Last year, HRSCE sent out a (b) (6), (b) (7)(C) job announcement but I already had this stack (of resumes). HRSCE's is a pool we could use but we'd probably have to start earlier in the process."

(19) During the course of this investigation, overwhelming witness testimony was made as to the poor climate of NAVSUP FLCN and the impact the numerous perceived improprieties have had on the morale of its personnel. Personnel appear to have a lack of faith in management to "do the right thing" when the relatives of other employees, particularly those of senior management, are involved.

(20) In the command newsletter, the "Supply Chest", dated 03 October 2011, (b) (6), (b) (7)(C) is pictured at the Armed Services YMCA 8K Mud Run with two individuals listed in the original complaint and other subordinates that have been alleged recipients of preferential treatment due to either familial ties or known associations.

(21) In the command newsletter, the "Supply Chest", dated 01 June 2012, (b) (6), (b) (7)(C) is pictured at Navy Supply Corps golf tournament with three individuals listed in the original complaint and other subordinates that have been alleged recipients of preferential treatment due to either familial ties or known associations.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(14), employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) As a senior leader in the organization with intimate involvement in the personnel matters of her department, (b) (6), (b) (7)(C) has allowed for and/or personally approved the hire of 27 individuals with familial ties to NAVSUP FLCN and/or the NAVSUP community - perpetuating the appearance of nepotism and other related improprieties, as validated by overwhelming witness testimony.

(3) Contrary to (b) (6), (b) (7)(C) statements that there were ongoing efforts to recruit at specific colleges and universities, IOs were unable to find much correlation between certain universities to which such a recruitment could have taken place and the alma maters of those individuals whom were ultimately selected. In addition, the low volume of candidates produced by the FCIP announcements is not consistent with a wide distribution such as the posting of a link to a public forum like a university career website. Rather, the small numbers of candidates produced suggest targeted recruitment and selective distribution of the link for application.

(4) The practices that (b) (6), (b) (7)(C) employed in the recruitment of employees between November 2008 until the present, particularly for coveted FCIP opportunities, resulted in an culture of widespread nepotism and an overwhelming

appearance of impropriety which has since severely affected the morale of NAVSUP FLCN's workforce.

(5) It should be noted that, although student hires are temporary, as (b) (6), (b) (7)(C) stated in her interview with the IOs, during the course of the investigation, such appointments were found to have been used by NAVSUP FLCN as the basis for justification of eligibility for future employment and, in some cases, appointment at a higher grade-level than that to which a candidate initially qualified.

(6) According to witness testimony, pictures posted in the command newsletter of (b) (6), (b) (7)(C) socializing during non-command sponsored events with subordinates perceived to be receiving preference or advantage from (b) (6), (b) (7)(C) has perpetuated the appearance that such activity is taking place.

(7) (b) (6), (b) (7)(C) participation in the selective distribution of the links to applications for employment at NAVSUP FLCN to private individuals with familial ties to the NAVSUP FLCN organization and NAVSUP Enterprise, as well as her involvement in the employment, promotion, and advancements of those individuals, has created the appearance of impropriety by means of violations of civil service laws, rules, and regulations, in violation of 5 CFR 2635.101(b)(14).

(8) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

47. Forty-fifth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 213.3202(a)(7)(2007), "Student Educational Employment Program", by not properly executing the Student Temporary Employment Program [Schedule B 213.3202(a)] at NAVSUP Fleet Logistics Center Norfolk (FLCN) and subsequently allowing the employment of students in the same agency with a relative in a position to influence or control the student's appointment, employment, promotion or advancement within the agency, during the time period of August 2007 and present. **Substantiated.**

a. Facts

(1) 5 CFR 213.3202(a)(7)(2007), states that a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion, or advancement within the agency.

(2) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed. The PMAB membership consists of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) until his departure in December of 2008 and replaced by (b) (6), (b) (7)(C) with an overlap from June 2008-December 2008; and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(3) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(4) NAVSUP FLCN processes all summer hires as by-name requests with approval by the PMAB.

(5) (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) NAVSUP FLCN from 2000 until October 2011, in which she was in a position that could have influenced or controlled a student's appointment, employment, promotion or advancement within NAVSUP FLCN Code 200.

(6) According to the testimonies of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(7) According to (b) (6), (b) (7)(C) Standard Form - 50 (SF-50), Notification of Personnel Action, his initial summer hire as a GS-0344-05, effective 19 May 2008, was processed as a by-name request.

(8) On 15 June 2009, (b) (6), (b) (7)(C) was reappointed as a summer hire, GS-0344-05, not to exceed 30 September 2009, through an additional by-name request.

(9) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C)

(10) Human Resources Service Center - East (HRSC-E) data pull covering the period of May 2006 through July 2012 lists (b) (6), (b) (7)(C) as a summer hire Management Clerk, GS-0344-04, in Code 200, effective 12 July 2010 and not to exceed 30 September 2010.

(11) (b) (6), (b) (7)(C) was selected for the position of (b) (6), (b) (7)(C) May 2008, in which she is in a position that could influence or control a student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(12) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is the niece of (b) (6), (b) (7)(C)

(13) Human Resources Service Center - East (HRSC-E) data pull covering the period of May 2006 through July 2012 lists (b) (6), (b) (7)(C) as a summer hire Management Clerk, GS-0344-03, effective 20 June 2011 and not to exceed 30 September 2011, in the Contracting Department of NAVSUP FLCN.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 213.3202(a)(7)(2007), a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(2) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(3) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(4) (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(5) As a key member of the PMAB, (b) (6), (b) (7)(C) was, at the time of (b) (6), (b) (7)(C) appointments - serving in a position that could influence or control the student's appointment, employment, promotion or advancement within NAVSUP FLCN.

(6) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was, at the time of the appointment of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) - serving in a position that could influence or control the student's appointment, employment, promotion, or advancement within NAVSUP FLCN Code 200.

(7) As the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) approved the appointment, employment, and/or subsequent extension of individuals with relatives in a position to influence or control the student's appointment, employment, promotion, or advancement within the agency, in violation of Title 5, United States Code, Section 213.3202(a)(7)(2007).

(8) Based on the evidence, this allegation is substantiated.

c. Recommendation(s). Take appropriate action to hold subject accountable.

d. Disposition. Forwarded to higher authority for appropriate administrative and/or corrective action.

48. Forty-sixth Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(14), "Basic Obligation of Public Service", by failing to recuse herself from the civilian hiring processes for which her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was a candidate for employment and promotion with the NAVSUP Fleet Logistics Center Norfolk (FLCN) and subsequently created an appearance of impropriety, during the time period of May 2010 until the present.
Not substantiated.

a. Facts

(1) 5 CFR 2635.101(b)(14) states that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) According to the testimonies of (b) (6), (b) (7)(C) and her (b) (6), (b) (7)(C), as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(3) According to her statement, (b) (6), (b) (7)(C) holds the position of (b) (6), (b) (7)(C), in which capacity she is involved in the hiring process of Code 200, NAVSUP FLCN.

(4) In that regard, (b) (6), (b) (7)(C) explained, "Well, I work in parts of the personnel area. What I do is, if a cert comes in, I gather resumes, compile them, put them in different folders, provide them to the panel, then they do their thing on it. Then I'll take their scoring sheets and interview scoring and compile them in another data spreadsheet. I also am an EEO rep for the interviews so I sit in on a lot of interviews."

(5) (b) (6), (b) (7)(C) was first appointed to a GS-0344-05 on 27
(b) (6), (b) (7)(C)

(6) In 2012, (b) (6), (b) (7)(C) applied for a promotion to a GS-1105-5/6/7/9, Purchasing Agent.

(7) According to email traffic between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) on 7 June 2012, (b) (6), (b) (7)(C) contacted the candidates for the GS-1105 position for which her (b) (6), (b) (7)(C) was a candidate for selection and scheduled all of the interviews with the exception of an individual who was unable to be contacted.

(8) In an email dated 4 June 2012, (b) (6), (b) (7)(C) sent sample interview questions, for the position to which (b) (6), (b) (7)(C) was set to interview for, to the interview panel members with (b) (6), (b) (7)(C) in the CC line. (b) (6), (b) (7)(C) also directed the panel members to coordinate with (b) (6), (b) (7)(C) to schedule the interviews.

(9) In an email dated 4 June 2012, (b) (6), (b) (7)(C) responded to the other panel members regarding (b) (6), (b) (7)(C) email stating that the sample questions were sufficient to be used for the interviews.

(10) In an email dated 5 June 2012, (b) (6), (b) (7)(C) wrote to the panel members for the 1105 position, "Please see attached scoring guide for the resumes for the 1105 position. Each of you will need to complete this form. Once completed please forward the form back to me and I will incorporate it within the interview scoring sheets. Once you have completed the interview, please forward me each interview sheet for the individuals so that I can input the data."

(11) Witness testimony by (b) (6), (b) (7)(C), who sat on the interview panel for the GS-1105 position to which (b) (6), (b) (7)(C) was selected, indicated that (b) (6), (b) (7)(C) may have had knowledge of the interview questions prior to the interview. (b) (6), (b) (7)(C) testified that, for someone with limited contracting experience, (b) (6), (b) (7)(C) used too many buzzwords."

(12) Conflicting testimony was made by the other panel members, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), who did not feel that (b) (6), (b) (7)(C) had been coached and/or was extraordinarily prepared for the interview.

(13) On 27 July 2012, (b) (6), (b) (7)(C) was selected to the GS-1105-05, to which she had applied and interviewed.

(14) Various witness testimony indicated that (b) (6), (b) (7)(C), a GS-0343-12, often shared a workspace and/or worked in close proximity to her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), a GS-0344-05, oftentimes filling in for her when her (b) (6), (b) (7)(C) was absent or tardy for work.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(14), employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(2) (b) (6), (b) (7)(C), as the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C), meets the criteria of a relative, as prescribed in 5 USC 3110(a)(3).

(3) By nature of her position, (b) (6), (b) (7)(C) was intimately involved in the personnel transactions of NAVSUP FLCN Code 200 and had detailed knowledge of personnel requirements across Code 200.

(4) (b) (6), (b) (7)(C) validation of the sample interview questions indicates that (b) (6), (b) (7)(C) was in fact in possession of the same version of the interview questions used in the interview for the position to which her (b) (6), (b) (7)(C) competed and was ultimately selected; however, the investigation did not uncover any concrete evidence that (b) (6), (b) (7)(C) provided those questions to her (b) (6), (b) (7)(C).

(5) While comments made by one of the selection panel members raises a suspicion that (b) (6), (b) (7)(C) may have passed interview questions to her (b) (6), (b) (7)(C), those suspicions were not corroborated by the testimony of the remaining panel members and the investigation has not found sufficient evidence to substantiate that suspicion.

(6) Based on a lack of evidence, this allegation is not substantiated.

c. Recommendation(s). None.

d. Disposition. None.

49. Forty-seventh Allegation: That (b) (6), (b) (7)(C) violated Title 5, Code of Federal Regulations, Section 2635.101(b)(8), "Basic Obligation of Public Service", by providing preferential treatment to her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), in her pursuit of employment with NAVSUP Fleet Logistics Center Norfolk (FLCN), during the time period of March 2011 and present. **Not substantiated.**

a. Facts

(1) 5 CFR 2635.101(b)(8) states that employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) According to the testimonies of (b) (6), (b) (7)(C) and her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), as well as (b) (6), (b) (7)(C) Optional Form - 306 (OF-306), Declaration for Federal Employment, (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C).

(3) NAVSUP FLCN utilizes a Position Management Advisory Board (PMAB) to which personnel actions must be submitted for approval prior to being executed.

(4) According to her statement, (b) (6), (b) (7)(C) has held the position of "HR Liaison" for over ten years, to include the time of (b) (6), (b) (7)(C) hire, in which capacity she was directly responsible for the preparation of all documents associated with personnel actions to be presented to the NAVSUP FLCN's PMAB for approval and served as the main liaison between the command and the servicing HRO.

(5) In such a capacity, (b) (6), (b) (7)(C) has intimate knowledge of staffing requirements and personnel matters across NAVSUP FLCN.

(6) According to the testimony of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) some personnel actions may have names associated

with the documentation submitted to the PMAB for approval. Such actions include by-name requests, reassignments, and career-ladder promotions.

(7) NAVSUP FLCN has historically bypassed the recruitment services offered by the Human Resource Service Center - East and chosen to advertise and recruit for their summer hire program by word of mouth only.

(8) In regard to how she learned of the position to which her (b) (6), (b) (7) (e) was ultimately hired, (b) (6), (b) (7) (C) stated, "It was just word of mouth; there was no email sent out to solicit for candidates. I don't ever recall seeing an email specifically about summer hires."

(9) NAVSUP FLCN processes candidates received through that word-of-mouth practice as by-name requests.

(10) In keeping with such practices and according to (b) (6), (b) (7) (C) Standard Form - 52 (SF-52), Request for Personnel Action, her initial summer hire as a GS-0344-03, effective 23 May 2011, was processed as a by-name request.

(11) NAVSUP FLCN requesting organization Code 200 submitted a Position Management Tracking Form (PMAB)# 105-11 on 18 April 2011, justification: "Recruit a Management Clerk, GS-0344-03 student hire in the Contracting Department. Student will work 30 hours per week, NTE 30 Sep 11." Recruit Area of Consideration: "Name request (b) (6), (b) (7) (C) ".

(12) In regard to her (b) (6), (b) (7) (e) initial summer employment at NAVSUP FLCN, (b) (6), (b) (7) (C) stated, "I was made aware that they were hiring students and my (b) (6), (b) (7) (e) was in college. I provided Code 200 with a copy of her resume and transcript. She came on May or June 2011 and was here until mid-August, then went back to school."

(13) (b) (6), (b) (7) (C) explained how she learned of the open position with NAVSUP FLCN through her (b) (6), (b) (7) (e), (b) (6), (b) (7) (C) stating, "My (b) (6), (b) (7) (e) is an employee in a different code and she introduced it to me and then handed me over to, I think her name's (b) (6), (b) (7) (C) in HR."

(14) (b) (6), (b) (7) (C) testified that she was not interviewed for the position with NAVSUP FLCN, rather was only required to provide a resume and a transcript indicating full-time student status prior to selection.

(15) As to how she provided those documents to the appropriate personnel at NAVSUP FLCN, (b) (6), (b) (7) (C) testified, "I might have sent it with my (b) (6), (b) (7) (e) to hand it to (b) (6), (b) (7) (C) because, at that point, I was in Virginia Beach. For my summer hire in 2011, we went through regular mail and email. I think I emailed my resume and I couldn't email my transcript so my (b) (6), (b) (7) (e) would have brought that in for me. In 2012, it would have been the same way."

(16) (b) (6), (b) (7) (C) testified that it is not part of her job to correspond with applicants or pass documents for applicants to the HRO. She explained that she is not involved with that aspect of the hiring process, explaining, "For the most part, I don't know who's selected and I don't see the back-up documentation for those."

(17) On 5 August 2011, (b) (6), (b) (7) (C) resigned from her position at NAVSUP FLCN to return to college for the beginning of the Fall 2011 semester.

(18) In regard to (b) (6), (b) (7)(C) second summer appointment at NAVSUP FLCN, (b) (6), (b) (7)(C) testified, "They were hiring this past May and I provided the same information again and they brought her back on. It was not to exceed 30 September 2012, but they've extended that to 30 September 2013."

(19) (b) (6), (b) (7)(C) also testified, "This year, when I heard they were hiring, I called (b) (6), (b) (7)(C) and asked if she was hiring and if she wanted me to send her (b) (6), (b) (7)(C) info. She said she'd talk to (b) (6), (b) (7)(C) and get back to me. She told me that they were and to get the information and I did. At least that's the way I remember it."

(20) As to how (b) (6), (b) (7)(C) information was submitted, (b) (6), (b) (7)(C) testified, "Both times, her information was provided to Code 200 - to (b) (6), (b) (7)(C) ."

(21) In an email dated 17 April 2012, (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C) proof of enrollment to (b) (6), (b) (7)(C) of the HRO Norfolk - FLCN Satellite Office, writing, "(b) (6), (b) (7)(C) attached is (b) (6), (b) (7)(C) schedule for Fall 2012, as it stands now. She intends to register for additional classes, just hasn't done so yet. The RPA for the summer hire position was forwarded to HRO last week."

(22) In a note dated 2 May 2012 from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C), both of HRO Norfolk - FLCN Satellite Office, (b) (6), (b) (7)(C) informed (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) had hand-delivered (b) (6), (b) (7)(C) transcript to the HRO: "(b) (6), (b) (7)(C) brought most recent transcript today."

(23) On 22 May 2012, (b) (6), (b) (7)(C) was reappointed to an excepted appointment, GS-0344-04, under the Sch B, 213.3202(a)-Ba/Bs authority.

(24) On 30 September 2012, (b) (6), (b) (7)(C) summer hire appointment was extended, not to exceed 30 September 2013.

(25) During her interview, (b) (6), (b) (7)(C) testified, "I think I may have been the one to create the RPAs for both years and probably the extension and the resignation, but I'd have to look at the paperwork to see."

(26) (b) (6), (b) (7)(C) further explained, "With all of that, there also would have been a PMAB form with the request from the department that would have identified (b) (6), (b) (7)(C) as the name request or whatever other student they were identifying, and that would have gone through the same PMAB process. Then, once that was done, the RPA would have been created."

(27) On at least three separate occasions, (b) (6), (b) (7)(C) in the capacity of her position, prepared the paperwork for by-name requests for appointment and extension of her (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), for approval by the PMAB.

b. Analysis/Discussion/Conclusion

(1) According to 5 CFR 2635.101(b)(8), employees shall act impartially and not give preferential treatment to any private organization or individual.

(2) By nature of her position, (b) (6), (b) (7)(C) had knowledge of personnel requirements across the NAVSUP FLCN organization. However, (b) (6), (b) (7)(C) had no role in creating the NAVSUP FLCN Student Hire Program and only administrative duties with respect to hiring decisions made pursuant to that

program. From all testimony, it appears she facilitated the submission of her
(b) (6), (b) (7)(c) s application for summer employment, but had no authority over the
decision whether or not to hire (b) (6), (b) (7)(C). There is no indication (b) (6),
(b) (6), (b) (b) (7)(C) asked for any favor or treatment that was not available to other NAVSUP
FLCN employees.

(3) Because NAVSUP FLCN's summer hire program is advertised by word-of-mouth only, (b) (6), (b) (7)(C) would not have learned of the employment opportunity had her (b) (6), (b) (7)(c) not been employed by the organization and directly afforded her that information.

(4) On at least two occasions, (b) (6), (b) (7)(C) personally delivered documents on behalf of her (b) (6), (b) (7)(c), (b) (6), (b) (7)(C) - an action that she testified she does not perform for other candidates for employment at NAVSUP FLCN.

(5) On at least three occasions, (b) (6), (b) (7)(C) personally prepared documents, to include Position Management Tracking Forms and Requests for Personnel Action, for the appointment of her (b) (6), (b) (7)(c), (b) (6), (b) (7)(C) to a civilian position at NAVSUP FLCN. However, she prepared these documents at the direction of her supervisors, who were the officials with authority to make a decision with regard to summer employment offers.

(6) Although (b) (6), (b) (7)(C) benefitted from her (b) (6), (b) (7)(c) knowledge about how to apply for summer employment with NAVSUP FLCN, giving her an advantage over those who did not know about the program, the inequities in the summer hire program were not due to any action or inaction on the part of (b) (6), (b) (7)(C). The responsibility for ensuring that student employment opportunities were sufficiently advertised and fairly awarded rests with management, not those administrative personnel that support management.

(7) Based on the evidence, this allegation is not substantiated.

c. Recommendation(s). None.

d. Disposition. None.

50. Additional Persons Named In Complaint

a. (b) (6), (b) (7)(C) & (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) a former employee of NAVSUP FLCN from approximately 2000 until 2007. (b) (6), (b) (7)(C) has been onboard with NAVSUP FLCN since her appointment to an FCIP position 2 February 2010. She was selected from Certificate of Eligibles #AN-09-MFL-07118S0, issued 18 August 2009, which was the result of a job announcement that was not advertised and for which application was only accessible for those to which a link and/or announcement number was provided. (b) (6), (b) (7)(C) appears to have been among the group of individuals whom benefitted from senior leadership's exploitation of the FCIP process through the selective distribution of the link for application to specific individuals with known associations to the NAVSUP FLCN organization and/or the NAVSUP community.

b. (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), & (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) are the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C), a former employee of NAVSUP FLCN. Although (b) (6), (b) (7)(C) was not employed by the organization at the time of their hire, (b) (6), (b) (7)(C) did acknowledge being recognized as (b) (6), (b) (7)(C) (b) (6), (b) (7)(c) once onboard. (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) have been on board with NAVSUP FLCN since their appointments to FCIP positions 10

November 2008. Despite (b) (6), (b) (7)(C) ' testimony that she found the position through a general search of USAjobs, the results of the investigation indicated otherwise. (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) applied to the same FCIP announcement and were both selected from Certificate of Eligibles #AN-09-MFL-03618S0, issued 26 August 2008, which was the result of a job announcement that was not advertised and for which application was only accessible for those to which a link and/or announcement number was provided. (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) appear to have been qualified for the positions and simply benefited from the processes employed by NAVSUP FLCN senior leadership in the exploitation of the FCIP process through the selective distribution of the link for application to specific individuals with known associations to the NAVSUP FLCN organization and/or the NAVSUP community.

c. (b) (6), (b) (7)(C) & (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) , who has been an employee of NAVSUP FLCN since 1984, with the majority of that time spent in Code 200. (b) (6), (b) (7)(C) has been on board with NAVSUP FLCN since her temporary appointment to a summer hire position 22 May 2006, for which little to no advertisement or recruitment occurred. Only individuals such as (b) (6), (b) (7)(C) , with a family member or associate employed by the organization, would have been privy to the information required to apply and be considered for employment. During the application process, her (b) (6), (b) (7)(C) provided her resume to the appropriate officials for consideration. Once onboard, (b) (6), (b) (7)(C) temporary summer hire appointment was extended on three separate occasions using the Student Temporary Employment Program (STEP) and affording her continued employment until her full-time appointment to an FCIP position 2 August 2009. She was selected from Certificate of Eligibles #AN-09-MFL-06497S0, issued 9 July 2009, which was the result of a job announcement that was not advertised and for which application was only accessible for those to which a link and/or announcement number was provided. The said Certificate of Eligibles produced 4 candidates, 3 of which were relatives of NAVSUP FLCN employees. The fourth candidate with no known familial ties was not selected. In the latter appointment, she was among the group of individuals whom benefited from senior leadership's exploitation of the FCIP process through the selective distribution of the link for application to specific individuals with known associations to the NAVSUP FLCN organization and/or the NAVSUP community.

d. (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) was initially discovered in a data pull at the onset of this investigation by the NAVSUP IG Hotline Program (b) (6), (b) (7)(C) as a contractor employed by NAVSUP FLCN bearing the same last name as two other individuals named in the complaint - (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) . His name was added to the complaint for further investigation. He has since been found to have no relation to the (b) (6), (b) (7)(C) .

e. (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) is an example of an individual that was hired as a result of his access to information that was not shared freely and/or to which no one outside the organization had access. He was among the group of individuals whom benefited from senior leadership's exploitation of the FCIP process through the selective distribution of the link for application to specific individuals made known to leadership by members of the NAVSUP FLCN organization and/or the NAVSUP community. (b) (6), (b) (7)(C) is, by his own admission, a "distant relative" of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) , whom were both employed by NAVSUP FLCN at the time of his hire; (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) is married to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) . It is through (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) learned of the position to which he applied and was ultimately selected. (b) (6), (b) (7)(C) testified that (b) (6), (b) (7)(C) helped him with USAjobs. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) so added that he provided his resume to (b) (6), (b) (7)(C) "I gave my resume to

(b) (6), (b) (7)(C) to look over it. He may have, I'm trying to think if it was passed around before. I think he may have sent it to his supervisor who might have sent it to (b) (6), (b) (7)(C). I think she was in charge of interns at the time. It would just be like, 'Here's someone that's interested in the internship program.' " (b) (6), (b) (7)(C) was interviewed for the position, at which point he traveled to the Norfolk area and stayed at (b) (6), (b) (7)(C) home the night prior. (b) (6), (b) (7)(C) was selected for hire from Certificate of Eligibles #AN-09-MFL-5489S0, issued 3 March 2009, which was the result of a job announcement that was not advertised and for which application was only accessible for those to which a link and/or announcement number was provided.

f. (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) a long time employee of NAVSUP FLCN occupying a significant leadership role within the organization. (b) (6), (b) (7)(C) was onboard with NAVSUP FLCN from approximately August 2003 to July 2009. She was initially appointed to a GS-1102-12 position in Code 200, the code in which her (b) (6), (b) (7)(c) held a leadership role at the time. At some point around 2006, she was promoted to a GS-1102-13. According to the statement of (b) (6), (b) (7)(C) did not advocate or refer her (b) (6), (b) (7)(c) application for employment and (b) (6), (b) (7)(C) "competitively applied" for the promotion at NAVSUP FLCN. However, due to personnel records retention procedures and the time that has elapsed since (b) (6), (b) (7)(C) employment with NAVSUP FLCN, there was very little documentation (b) (6), (b) (7)(c) available for the IO's review and no determination could be made as to the merit of her appointment at NAVSUP FLCN.

g. (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) is confirmed to be the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) was first onboard at NAVSUP FLCN while on active duty. He was then employed at NAVSUP FLCN as a contractor with ManTech from 1995 until 2004. In 2004 he was hired into a civilian position at the organization. He has since been employed by NAVSUP FLCN, with the exception of an approximately two year stint from 2007 until 2009 at what was then called the Naval Operational Logistics Support Center (NOLSC), a fellow NAVSUP activity. According to (b) (6), (b) (7)(C) statement, he was not onboard with NAVSUP FLCN at the time that his (b) (6), (b) (7)(c) was hired.

h. (b) (6), (b) (7)(C) & (b) (6), (b) (7)(C) . (b) (6), (b) (7)(C) is the (b) (6), (b) (7)(c) of (b) (6), (b) (7)(C) , a long time employee of NAVSUP FLCN currently employed as a supervisory program analyst in Code 200. In that position, (b) (6), (b) (7)(C) is responsible for tracking funding, travel, supplies, and, most notably, personnel. Her (b) (6), (b) (7)(c) is an example of an individual that was hired as a result of his access to information that was not shared freely and/or to which no one outside the organization had access. In (b) (6), (b) (7)(C) case, no advertisement and little recruitment occurred for the summer hire opportunity to which he was hired and ultimately employed. Only individuals such as himself, with a family member or associate employed by the organization, would have been privy to the information required to apply and be considered for employment. Once onboard, (b) (6), (b) (7)(C) temporary summer hire appointment was extended multiple times using the Student Temporary Employment Program (STEP) affording him continued employment.

51. Interviews and Documents

a. **Interviews conducted.** (All interviews conducted in person unless otherwise noted.)

(1) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C) , GS-13.

(2) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(3) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(4) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-11.

(5) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, (b) (6), (b) (7)(c), GS-14.

(6) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Management and Program Analyst, GS-11.

(7) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Supervisory Contract Specialist, GS-13.

(8) (b) (6), (b) (7)(C) (subject), (b) (6), (b) (7)(C), GS-15.

(9) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Supervisory Contract Specialist, Division Director, GS-14.

(10) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Supervisory Program Analyst, GS-12.

(11) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Management Clerk, GS-4.

(12) (b) (6), (b) (7)(C) (subject), NAVSUP FLCN Management Analyst, GS-12.

(13) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(14) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C), GS-7.

(15) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Management & Program Analyst, GS-09.

(16) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(17) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Supervisory Contract Specialist, (b) (6), (b) (7)(c), GS (b) (6), (b) (7)(c).

(18) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Management Clerk, GS-04.

(19) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Administrative Assistant, GS-05.

(20) (b) (6), (b) (7)(C) (subject), (b) (6), (b) (7)(C), GS-15.

(21) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(22) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(23) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C), formerly assigned to NAVSUP FLCN.

(24) (b) (6), (b) (7)(C) (witness), Human Resources Office Norfolk Human Resource Assistant, GS-12.

(25) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(26) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-11.

(27) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Logistics Support Representative, GS-09.

(28) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C), GS-13.

(29) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN NACO Intern.

(30) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Workforce Enrichment Specialist, GS-12.

(31) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-11.

(32) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C), GS-14.

(33) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C).

(34) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, GS-13.

(35) (b) (6), (b) (7)(C), Human Resources Office Norfolk (b) (6), (b) (7)(c) Human Resources Specialist, GS-13.

(36) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Resource Manager, GS-13.

(37) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C), GS-12.

(38) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-13.

(39) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, GS-13.

(40) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C), GS-12.

(41) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, GS-13.

(42) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, GS-13.

(43) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(44) (b) (6), (b) (7)(C) (witness), Human Resources Office Norfolk Human Resource Assistant, GS-12.

(45) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Purchasing Agent, GS-05.

(46) (b) (6), (b) (7)(C) (subject), NAVSUP FLCN Management & Program Analyst, GS-12.

(47) (b) (6), (b) (7)(C) (witness), Human Resources Office Norfolk Human Resource Assistant, GS-07.

(48) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Program Analyst, GS-13.

(49) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, GS-13.

(50) (b) (6), (b) (7)(C) (subject), (b) (6), (b) (7)(C) , GS-15.

(51) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

(52) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, GS-13.

(53) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN S (b) (6), (b) (7)(c) Program Analyst, GS-13.

(54) (b) (6), (b) (7)(C) (subject), (b) (6), (b) (7)(C) GS-14.

(55) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, GS-13.

(56) (b) (6), (b) (7)(C) (witness), Workforce Enrichment Specialist, GS-12.

(57) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C) , GS-14(Telephone Interview).

(58) (b) (6), (b) (7)(C) (witness), (b) (6), (b) (7)(C) , GS-13.

(59) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN (b) (6), (b) (7)(c) Contract Specialist, GS-14.

(60) (b) (6), (b) (7)(C) (witness), NAVSUP FLCN Contract Specialist, GS-12.

b. Documents reviewed:

- (1) 5 USC 2301, Merit system principles
- (2) 5 USC 2302, Prohibited personnel practices
- (3) 5 USC 3110, Employment of relatives; restrictions
- (4) 5 CFR 2635.101, Basic obligation of public service
- (5) 5 CFR 213.3202, Student Educational Employment Program
- (6) Printouts from the Office of Personnel Management website, Executive Order 13162, Federal Career Intern Program
- (7) Department of Navy Memorandum dated 25 April 2002, Department of the Navy Career Intern Program
- (8) Navy Supply Systems Command Memorandum dated 08 February 2008, Area of Consideration (AOC) for Enterprise recruitment Actions
- (9) Navy Supply Systems Command Memorandum dated 05 July 2011, Area of Consideration (AOC) for Enterprise recruitment Actions
- (10) Fleet and Industrial Supply Center Norfolk Memorandum dated 07 Feb 2007, Selecting Official Guidance
- (11) NAVSUP FLCN) Organizational Assessment Survey for 2009 and Climate Report 2012
- (12) All Certificate of Eligibles processed by the Office of Personnel Management (OPM) Norfolk for NAVSUP FLCN from January 2007-February 2012
- (13) All NAVSUP FLCN Position Management Tracking Forms from 2008-2011
- (14) Human Resource Service Center - East (HRSC-E) data pull of all Appointment Actions for Student and Federal Career Intern for FLCN from 2006-2012
- (15) Standard Form 52, Request for Personnel Action
- (16) Standard Form 50, Notification of Personnel Action
- (17) Optional Form 306, Declaration for Federal Employment
- (18) NAVSUP FLCN Solicitation of Interest
- (19) NAVSUP FLCN retained files for personnel actions for Code 200 and Code 300
- (20) Human Resource Office (HRO) Norfolk - FLCN Satellite Office, retained files for FLCN Personnel Actions
- (21) NAVSUP FLCN newsletters "Supply Chest"
- (22) NAVSUP FLCN Alpha list
- (23) NAVSUP FLC Organization Chart for Code 200

(24) Human Resource Office (HRO) Norfolk - FLCN Satellite Office, Navy
Career Intern Program Binder

(25) NAVSUP Recruiting Handbook, Hiring Strategies for the Future, Draft
version 1 February 2008